

EXHIBIT 5

Justin Stile
May 29, 2020

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 CASE NO.: 17 Civ. 4853

4 SARAH PALIN, an individual,

5 Plaintiff,

6 vs.

7 THE NEW YORK TIMES COMPANY,
8 a New York corporation, and
9 JAMES BENNET, an individual,

10 Defendants.
_____ /

11
12 VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF
13 THE CORPORATE REPRESENTATIVE OF
14 THE NEW YORK TIMES COMPANY
15 JUSTIN STILE
16 Appearing Remotely From
17 Collier County, Florida
18 (Pages 1 through 97)

19
20
21
22 Friday, May 29, 2020
23 12:06 p.m. - 3:16 p.m.

24 Stenographically Reported By:
25 Lori K. Ash, RPR, FPR
Notary Public, State of Florida
U.S. Legal Support, Inc.
Reporting Remotely From
Hillsborough County, Florida

Justin Stile
May 29, 2020

2 to 5

Page 2	Page 4
<p>1 REMOTE APPEARANCES VIA VIDEOCONFERENCE:</p> <p>2 SHANE B. VOGT, ESQUIRE</p> <p>3 Bajo Cuva Cohen & Turkel P.A.</p> <p>4 100 North Tampa Street</p> <p>5 Suite 1900</p> <p>6 Tampa, Florida 33602</p> <p>7 (813) 443-2199</p> <p>8 shane.vogt@bajocuva.com</p> <p>9 Attorney for Plaintiff</p> <p>10 JACQUELYN N. SCHELL, ESQUIRE</p> <p>11 Ballard Spahr LLP</p> <p>12 1675 Broadway</p> <p>13 19th Floor</p> <p>14 New York, New York 10019</p> <p>15 (212) 223-020</p> <p>16 schellj@ballardspahr.com</p> <p>17 and</p> <p>18 DAVID L. AXELROD, ESQUIRE</p> <p>19 Ballard Spahr LLP</p> <p>20 1735 Market Street</p> <p>21 51st Floor</p> <p>22 Philadelphia, Pennsylvania 19103</p> <p>23 (215) 665-8500</p> <p>24 axelrodd@ballardspahr.com</p> <p>25 Attorneys for Defendant</p> <p>ALSO PRESENT:</p> <p>Alexandra Perloff-Giles</p> <p>Roderick Pratt, Video Technician</p> <p>U.S. Legal Support, Inc.</p>	<p>1 PLAINTIFF'S PREVIOUSLY MARKED EXHIBITS</p> <p>2 NO. DESCRIPTION PAGE</p> <p>3 52 Page Vault Document Title: NYT Opinion on</p> <p>4 Twitter (PALIN03827 to 03828).....61</p> <p>5</p> <p>6 DEFENDANTS' PREVIOUSLY MARKED EXHIBITS</p> <p>7 NO. DESCRIPTION PAGE</p> <p>8 58 Email dated 6/15/17 from stela_team@nytimes.</p> <p>9 com to stela.opinion@nytimes.com, Subject:</p> <p>10 Daily Report June 14, 2017; Opinion</p> <p>11 (NYTIMES0001699 to 0001701).....63</p> <p>12</p> <p>13 (Previously marked exhibits are not attached to</p> <p>14 this deposition transcript.)</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 3	Page 5
<p>1 INDEX</p> <p>2 PAGE</p> <p>3 Examination by Mr. Vogt.....7</p> <p>4 Certificate of Reporter.....96</p> <p>5 Certificate of Oath.....97</p> <p>6</p> <p>7</p> <p>8 EXHIBITS</p> <p>9 NO. DESCRIPTION PAGE</p> <p>10 A Notice of Taking Videotaped Deposition of</p> <p>11 Corporate Representative of The New York</p> <p>12 Times Via Videoconference.....11</p> <p>13</p> <p>14 266 Email dated 6/16/17 from</p> <p>15 noreply-analytics@google.com to</p> <p>16 jamesb@nytimes.com, Subject: Daily Opinion</p> <p>17 Dashboard with attachment Analytics NYT-</p> <p>18 Roll-Up - Opinion - Main Daily Opinion</p> <p>19 Dashboard 20170615-20170615.pdf</p> <p>20 (NYTIMES0002628 to 0002632).....70</p> <p>21</p> <p>22 270 Multipage document beginning with</p> <p>23 "Platform" (NYTIMES0004005 to 0004114).....79</p> <p>24 272 Multipage document described as appears to</p> <p>25 be JSON data (NYTIMES0002917 to 0002925).....87</p> <p>26</p> <p>27 293 Article titled "The New York Times is trying</p> <p>28 to narrow the distance between reporters and</p> <p>29 analytics data".....30</p> <p>30</p> <p>31 298 Five-page document labeled "A, B, C"</p> <p>32 at the top of first page (NYTIMES0003245</p> <p>33 to 0003249).....77</p> <p>34</p> <p>35 305 Page Vault Document Title: New York Times</p> <p>36 thinks small to reach readers on Apple Watch/</p> <p>37 Mobile Marketer.....55</p> <p>38</p> <p>39 (Exhibits provided electronically to reporter.)</p> <p>40</p> <p>41</p> <p>42</p> <p>43</p> <p>44</p> <p>45</p>	<p>1 The videotaped videoconference deposition</p> <p>2 of the CORPORATE REPRESENTATIVE OF THE NEW YORK</p> <p>3 TIMES COMPANY, JUSTIN STILE, was taken pursuant to</p> <p>4 notice by counsel for the Plaintiff on Friday,</p> <p>5 May 29, 2020, commencing at 12:06 p.m. Said</p> <p>6 deposition was reported remotely from Hillsborough</p> <p>7 County, Florida, by Lori K. Ash, RPR, FPR, Notary</p> <p>8 Public, State of Florida at Large.</p> <p>9 - - - - -</p> <p>10 VIDEO TECHNICIAN: We are now on the</p> <p>11 record. Participants should be aware that this</p> <p>12 proceeding is being recorded, and, as such, all</p> <p>13 conversations held will be recorded unless</p> <p>14 there is a request and agreement to go off the</p> <p>15 record. Private conversations and/or</p> <p>16 attorney/client interactions should be held</p> <p>17 outside the presence of the remote interface.</p> <p>18 A link of the recording will be available to</p> <p>19 all parties up to 90 days from today's date,</p> <p>20 provided the requesting party has purchased a</p> <p>21 certified copy of the transcript.</p> <p>22 This is the remote video recorded</p> <p>23 deposition of the Corporate Representative for</p> <p>24 The New York Times being taken by counsel for</p> <p>25 the Plaintiff. Today is Friday, the 29th day</p>

Page 6

1 of May of 2020. The time is approximately
2 12:06 Eastern Standard Time Zone.
3 We are here in the matter of Sara Palin
4 vs. The New York Times Company. My name is
5 Roderick Pratt, remote video technician on
6 behalf of U.S. Legal Support. I am not related
7 to any party in this action nor am I
8 financially interested in the outcome.

9 At this time, will the reporter, Lori Ash,
10 on behalf of U.S. Legal Support, please enter
11 the Statement for Remote Proceedings into the
12 record?

13 THE COURT REPORTER: Yes. The attorneys
14 participating in this deposition acknowledge
15 that I am not physically present in the
16 deposition room and that I will be reporting
17 this deposition remotely. They further
18 acknowledge that, in lieu of an oath
19 administered in person, I will administer the
20 oath remotely. This arrangement is pursuant to
21 the Florida Supreme Court Administrative Order
22 No. AOSC-20-23. The parties and their counsel
23 consent to this arrangement and waive any
24 objections to this manner of reporting.

25 Counsel, would you please indicate your

Page 7

1 agreement by stating your name and your
2 agreement on the record?

3 MR. VOGT: This is Shane Vogt, counsel for
4 the Plaintiff, and we agree.

5 MS. SCHELL: This is Jacquelyn Schell,
6 counsel for the Defendants, and we also agree.

7 THE COURT REPORTER: Mr. Stile, would you
8 raise your right hand, please? Do you swear or
9 affirm that the testimony you are about to give
10 will be the truth, the whole truth, and nothing
11 but the truth?

12 THE WITNESS: Yes.

13 THE COURT REPORTER: Thank you.

14 THEREUPON,

15 JUSTIN STILE,
16 having first been duly sworn or affirmed, was
17 examined and testified as follows:

18 EXAMINATION

19 BY MR. VOGT:

20 Q Good morning -- or afternoon, I guess. My
21 name is Shane Vogt. I represent Sarah Palin.

22 Have you ever been deposed before?

23 A No.

24 Q Okay. I'll go over some of the ground
25 rules before we start. Hopefully today will go

Page 8

1 pretty quickly and smoothly and we won't have too
2 many problems. I'm just going to ask you a series
3 of questions today. Please listen carefully to the
4 questions that I ask you. If they are confusing or
5 you don't understand them for any reason, please let
6 me know so that I can rephrase the question. Okay?

7 A Yes.

8 Q I know there's going to be points because
9 I'm not well versed in your areas of expertise that
10 I'm probably going to use terms wrong or
11 incorrectly. So if I do that, please just let me
12 know so that I know that we're on the same page when
13 we're talking about certain issues.

14 It's important for you to listen carefully
15 to the questions that I ask you and wait for me to
16 finish just because Lori is taking down everything
17 that we're saying today. So we can't talk over one
18 another. It's also important because it gives your
19 attorney time to object. For the most part during
20 the deposition, Jacquelyn object to the form of the
21 question. If she does that, just so it doesn't
22 catch you off guard or anything, it's okay for you
23 to go ahead and answer the question. It's just sort
24 of an attorney issue with how the question was
25 asked. At some point if she instructs you not to

Page 9

1 answer a question, then obviously you shouldn't
2 answer. Okay?

3 A (Nods head.)

4 Q It's also important for you to give verbal
5 responses because everything, again, is being taken
6 down by Lori. So no head nods, mmm-hhms, hmm-mmms.
7 Try to avoid those kind of things. And if you need
8 to take a break for any reason, just let me know.
9 Okay?

10 A Okay.

11 Q Where do you live?

12 A I -- well, I'm originally from New York.
13 I live in Brooklyn, but I'm currently in Naples,
14 Florida, for what would be probably at least
15 another -- throughout the end of this year.

16 Q And why are you in Naples currently?

17 A I am at [REDACTED] --

18 Q Not the address. I'm sorry. I asked --
19 I'm sorry. I just asked why you were in Naples as
20 opposed to --

21 A Oh, I was -- I was on vacation and then --
22 my mother lives in Naples, and I was visiting her
23 when a lot of the travel restrictions kicked in. So
24 on the tail end of the two-week vacation to Florida,
25 I wound up staying here permanently. And I'm happy

Justin Stille
May 29, 2020

10 to 13

<p style="text-align: right;">Page 10</p> <p>1 about that.</p> <p>2 Q Yeah. I was going to ask, Is that a good</p> <p>3 thing?</p> <p>4 A Yes. I love it here.</p> <p>5 Q So are you working remotely?</p> <p>6 A Yes.</p> <p>7 Q Okay. What is your current position with</p> <p>8 The New York Times?</p> <p>9 A Vice president analytics.</p> <p>10 Q Okay. And as I understand it, you have</p> <p>11 been designated as a corporate representative on</p> <p>12 behalf of The New York Times to testify as to a</p> <p>13 specific topic that we asked about in our notice of</p> <p>14 taking deposition in this case. Is that right?</p> <p>15 A Right.</p> <p>16 Q Okay. And just let me show you -- I'm</p> <p>17 going to -- during the course of this deposition,</p> <p>18 I'm going to share exhibits over the Zoom chat</p> <p>19 feature. You'll see them pop up in there. When</p> <p>20 they -- when you do, just click on them to download</p> <p>21 them, and then open them up. Let me know that</p> <p>22 you've received the exhibit, and then take a minute</p> <p>23 to look through it, if you need to.</p> <p>24 A Mmm-hmm.</p> <p>25 Q So this first one I'm going to send is</p>	<p style="text-align: right;">Page 12</p> <p>1 Q Okay. And you mentioned that you're the</p> <p>2 VP of analytics?</p> <p>3 A Correct.</p> <p>4 Q Is your full title VP analytics of</p> <p>5 engagement and audience?</p> <p>6 A That was my former title. Now it would be</p> <p>7 coverage and audience analytics.</p> <p>8 Q Is there a difference between those two</p> <p>9 things?</p> <p>10 A Yes. One is the engagement role far more</p> <p>11 focused on the digital products we create and the</p> <p>12 user engagement with those products, and my more</p> <p>13 recent role now is more focused on our coverage and</p> <p>14 the audience that it reaches.</p> <p>15 Q And when you say "coverage," what are you</p> <p>16 talking about?</p> <p>17 A Our report, our opinions, our news, our</p> <p>18 core news report coverage. It doesn't include</p> <p>19 things like cooking and games, word play,</p> <p>20 crosswords, things like that.</p> <p>21 Q When did you become the VP of analytics</p> <p>22 for coverage and audience?</p> <p>23 A At the very end of last year. I've sort</p> <p>24 of been in between two roles, with my replacement</p> <p>25 recently hired.</p>
<p style="text-align: right;">Page 11</p> <p>1 NYT Depo Exhibit A, which should be a copy of the</p> <p>2 notice for your deposition.</p> <p>3 A Yes. I'm clicking to open it now. I see</p> <p>4 it.</p> <p>5 Q If you go --</p> <p>6 A I have not seen this document before.</p> <p>7 Q Okay. But if you go to the fifth page --</p> <p>8 A Yes.</p> <p>9 Q -- item 6 there, do you see that?</p> <p>10 A Yes.</p> <p>11 Q And that's the topic --</p> <p>12 A I haven't read it, though.</p> <p>13 Q Take a -- take a minute to look through</p> <p>14 it.</p> <p>15 A Okay. Gotcha. Yes.</p> <p>16 Q You've been designated to testify as to</p> <p>17 that topic?</p> <p>18 A I only read the bold. Let me continue the</p> <p>19 response. Oh. Okay. Sorry. Yes.</p> <p>20 Q Good?</p> <p>21 A Sorry. Can you repeat the question?</p> <p>22 Q I just want to make sure that you're the</p> <p>23 person that's been designated to testify as to topic</p> <p>24 Number 6.</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 13</p> <p>1 Q And how long were you the VP of analytics</p> <p>2 of engagement and audience?</p> <p>3 A I was promoted to the VP level, I believe,</p> <p>4 maybe March of last year. Prior to that, I was</p> <p>5 executive director of engagement analytics. In the</p> <p>6 engagement analytics mission, I should say.</p> <p>7 Q And how long were you the executive</p> <p>8 director of engagement analytics?</p> <p>9 A Since the formation of engagement</p> <p>10 analytics, which was essentially January of 2019.</p> <p>11 Q What is engagement analytics?</p> <p>12 A Engagement analytics are essentially the</p> <p>13 analytics used to further our understanding of how</p> <p>14 our readers interact with our contents digitally --</p> <p>15 I'm sorry -- on our digital products, to be more</p> <p>16 specific.</p> <p>17 Q And what's a digital product?</p> <p>18 A A digital product is any -- well, I -- a</p> <p>19 manifestation of our report on our websites or in</p> <p>20 our app. So in that -- within those areas, we break</p> <p>21 it down into what we call products. So,</p> <p>22 for example, a home page -- our home page is</p> <p>23 considered a product, and like the article page,</p> <p>24 where our article sits, is considered a product. So</p> <p>25 those digital entities that we create that the</p>

Justin S. Hill
May 29, 2020

14 to 17

<p style="text-align: right;">Page 14</p> <p>1 reader uses to read our content.</p> <p>2 Q And when you said two areas in that</p> <p>3 response, you're talking about the website is one</p> <p>4 area and the app is another area?</p> <p>5 A We look at them pretty -- in the same</p> <p>6 lens. I don't recall whether or not -- what I was</p> <p>7 saying area in regards to, but the -- can you -- can</p> <p>8 you -- can you remind me what that was?</p> <p>9 Q Yeah. Well, let me ask you this.</p> <p>10 A Okay.</p> <p>11 Q It will probably deal with it the same</p> <p>12 way, but in terms of the website --</p> <p>13 A Mmm-hmm.</p> <p>14 Q -- you mentioned two products, the home</p> <p>15 page and article page. Are there any other products</p> <p>16 that fall underneath the website?</p> <p>17 A Yes. Well, website -- but if we think of</p> <p>18 it as The New York Times digital entity, there are</p> <p>19 many products. For example -- and those are just</p> <p>20 two examples, our biggest examples, but a newsletter</p> <p>21 can be considered a product. The way that we</p> <p>22 message users in our website can be considered a</p> <p>23 product. Essentially anything that needs to get</p> <p>24 built by engineers that needs to be integrated with</p> <p>25 our entire site, using "site" as a term for both the</p>	<p style="text-align: right;">Page 16</p> <p>1 our missions at The New York Times.</p> <p>2 Q What does it mean?</p> <p>3 A It -- it takes on various meanings.</p> <p>4 The -- the way -- the meaning that we use at the</p> <p>5 Times, especially in regards to the mission</p> <p>6 structure, is understanding how readers engage with</p> <p>7 The New York Times, not specific to an instance but</p> <p>8 their relationship over their -- the course of their</p> <p>9 life, if you will, and how they engage with our web</p> <p>10 properties or our digital properties.</p> <p>11 Q What are the ways that readers engage with</p> <p>12 the Times' digital properties?</p> <p>13 A We mostly consider engagement as use.</p> <p>14 Q Are comments a form of engagement?</p> <p>15 MS. SCHELL: Object to form.</p> <p>16 THE WITNESS: Not the way that we have it</p> <p>17 defined.</p> <p>18 BY MR. VOGT:</p> <p>19 Q Is there something in writing that defines</p> <p>20 engagement within the Times?</p> <p>21 A Not that I'm aware of, but there is -- I</p> <p>22 mean, it is part of our organization, so I -- I</p> <p>23 don't know.</p> <p>24 Q Does the Times analyze data related to</p> <p>25 reader engagement?</p>
<p style="text-align: right;">Page 15</p> <p>1 website and the app, that needs to be built and</p> <p>2 integrated, the product.</p> <p>3 Q And when you said "message users," what do</p> <p>4 you mean by that?</p> <p>5 A Mess- -- message user -- I don't know that</p> <p>6 I said that, but what I meant by message was that,</p> <p>7 you know, you'll be on our site, and there will be a</p> <p>8 banner that may come up. That banner may direct the</p> <p>9 reader to say that there's a breaking news event</p> <p>10 happening. That's an example of a messaging</p> <p>11 product.</p> <p>12 Q And then are there products within the</p> <p>13 app?</p> <p>14 A That's a good -- good question. The app</p> <p>15 itself is considered a product, though the -- those</p> <p>16 that manage products that would cross services to</p> <p>17 say the -- what we call them the home screen, which</p> <p>18 essentially on the website is the home page, if you</p> <p>19 will, and on the app is that first screen, their</p> <p>20 responsibilities include both -- you know, that full</p> <p>21 horizon. We acknowledge there's a distinction</p> <p>22 between the two from a platform sense, but from a</p> <p>23 business sense, we look at them together.</p> <p>24 Q What's engagement?</p> <p>25 A Engagement is a -- is the name of one of</p>	<p style="text-align: right;">Page 17</p> <p>1 A How would you -- in this case, how are you</p> <p>2 defining reader engagement? The way that -- just</p> <p>3 the way we would define it or a -- because</p> <p>4 engagement, I mean, capital E or lowercase E. Is</p> <p>5 there -- I guess can I get specificity?</p> <p>6 Q Yes. For my purposes, I would say things</p> <p>7 like comments, likes, shares, things like that.</p> <p>8 A Mmm-hmm. We -- I mean, The New York Times</p> <p>9 doesn't have likes. We do have data that we collect</p> <p>10 on our comments, like data tapping. When we think</p> <p>11 of engagement, we mostly think of just did the</p> <p>12 person come on this day or not, and within a number</p> <p>13 of -- or -- sorry -- did this browser or this</p> <p>14 registration ID, to be more specific, come a number</p> <p>15 of times within a certain period. That's how we</p> <p>16 measure engagements.</p> <p>17 Q And for people who may not be familiar</p> <p>18 with the terms, when you say the browser or</p> <p>19 registration ID in connection with the -- a person,</p> <p>20 what do you mean by that?</p> <p>21 A When a --</p> <p>22 MS. SCHELL: Object to the form, but you</p> <p>23 can answer.</p> <p>24 THE WITNESS: When a page loads on our</p> <p>25 website, it is delivered to a browser, and on</p>

Justin Stille

May 29, 2020

18 to 21

<p style="text-align: right;">Page 18</p> <p>1 that browser, we -- if somebody is not logged</p> <p>2 in, we only know that browser via a cookie we</p> <p>3 store, and so that's why I referred to</p> <p>4 browsers. A registration ID is a -- an ID that</p> <p>5 a user who has signed in has, and in that case,</p> <p>6 we can tell that that page is reserved to that</p> <p>7 specific user. That specific user's ID, I</p> <p>8 should say.</p> <p>9 BY MR. VOGT:</p> <p>10 Q Would a user that is signed in -- would</p> <p>11 that be someone who has subscribed to</p> <p>12 TheNewYorkTimes.com?</p> <p>13 A It includes those that are subscribed and</p> <p>14 those that have offered to give -- to create an</p> <p>15 account at the time, and so there's -- there's</p> <p>16 different levels of access.</p> <p>17 Q And when you say create an account, what</p> <p>18 do you mean by that?</p> <p>19 A We've -- we have essentially three types</p> <p>20 of users that we consider: Ones where we don't know</p> <p>21 any information. In this case, it's just the</p> <p>22 browser cookie. We call that anonymous. Ones where</p> <p>23 they have signed up to be New York Times registered</p> <p>24 users, we call those registered users. And ones</p> <p>25 where people have gone on to subscribe, which we</p>	<p style="text-align: right;">Page 20</p> <p>1 Q How are they different?</p> <p>2 A Readers is a friendly word we use when</p> <p>3 describing our -- the audience that reads our</p> <p>4 report. Audience is a, as I said, essentially a</p> <p>5 segment of the population, whether or not they are</p> <p>6 our readers. We typically, you know, overlap the</p> <p>7 two, but it's -- you know, the definition isn't</p> <p>8 official stamped in the book, but that's how those</p> <p>9 are used.</p> <p>10 Q And is there a way to measure the Times'</p> <p>11 audience on a given date?</p> <p>12 A The Times -- in other words -- what</p> <p>13 would -- how would you just define Times' audience</p> <p>14 in that question?</p> <p>15 Q So -- so if I wanted to determine the</p> <p>16 potential number of people exposed to The New York</p> <p>17 Times' website on a given date, is there a way to</p> <p>18 determine that?</p> <p>19 MS. SCHELL: Object to form, but you can</p> <p>20 answer if you understand.</p> <p>21 THE WITNESS: I -- it's hard to know the</p> <p>22 potentials. I mean, anyone with internet.</p> <p>23 BY MR. VOGT:</p> <p>24 Q Does the -- do you know does the Times</p> <p>25 keep records of what its average monthly readers</p>
<p style="text-align: right;">Page 19</p> <p>1 call those subscribers. Every subscriber is a</p> <p>2 registered user, but we -- the common term is just</p> <p>3 to distinguish them between subscriber and what we</p> <p>4 say REGUs, which is shorthand for registered users.</p> <p>5 Q And then on -- part of your title</p> <p>6 includes -- well, it's -- right now it's</p> <p>7 VP analytics coverage and audience. Is that right?</p> <p>8 A Correct.</p> <p>9 Q And what does -- what does audience mean?</p> <p>10 A Audience is the readers that viewed our</p> <p>11 content, or audience is that exists in the -- in the</p> <p>12 world, if you will, that -- that could be a group</p> <p>13 of -- a segment of the population you could reach.</p> <p>14 Q You said "reach." What does reach mean?</p> <p>15 A See our coverage.</p> <p>16 Q Have you ever heard of the term "potential</p> <p>17 reach"?</p> <p>18 A No.</p> <p>19 Q Have you ever heard of the term "potential</p> <p>20 audience"?</p> <p>21 A No. Not that I'm aware.</p> <p>22 Q Within The New York Times, does the term</p> <p>23 "readers" and the term "audience" mean the same</p> <p>24 thing?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 21</p> <p>1 are?</p> <p>2 A Average monthly readers, yes.</p> <p>3 Q And what's the purpose of keeping that</p> <p>4 data?</p> <p>5 A We look at it to understand trends over</p> <p>6 time.</p> <p>7 Q And does the Times maintain data</p> <p>8 concerning the actual number of visitors to</p> <p>9 the Times' website for each day?</p> <p>10 MS. SCHELL: Object to the form.</p> <p>11 THE WITNESS: It exists, but it is not a</p> <p>12 metric we regularly look at, nor do I -- I'm</p> <p>13 not aware of any official report that services</p> <p>14 that, but it is -- it is something that we</p> <p>15 have -- so in that respect, we tend to look at</p> <p>16 weeks, not days.</p> <p>17 BY MR. VOGT:</p> <p>18 Q Are there -- are there reports generated</p> <p>19 on a weekly basis that include statistics on the</p> <p>20 number of visitors to the Times website?</p> <p>21 A Yes.</p> <p>22 Q And do those reports have a name?</p> <p>23 A No.</p> <p>24 Q So in performing your job, are there tools</p> <p>25 that you use on a daily basis?</p>

Justin Steele

May 29, 2020

22 to 25

<p style="text-align: right;">Page 22</p> <p>1 A Yes.</p> <p>2 Q What tools?</p> <p>3 A Would be -- I'm assuming tools just</p> <p>4 digital application?</p> <p>5 Q Yeah. Digital application, software,</p> <p>6 programs, stuff like that.</p> <p>7 A Yes. I use software to manage work flows.</p> <p>8 We call it Airtable. Another one is also called</p> <p>9 JIRA. I use software Google Docs regularly. So</p> <p>10 that's writing notes in Google Docs or, you know,</p> <p>11 writing, you know, through Gmail. I use Slack for</p> <p>12 communications. They are all communications tools.</p> <p>13 I also -- I mean, those are definitely the</p> <p>14 day-to-day, the ones that I'll use every single day.</p> <p>15 Q Do you know what BigQuery is?</p> <p>16 A Yes.</p> <p>17 Q What is that?</p> <p>18 A BigQuery is a Google product. It's a</p> <p>19 database.</p> <p>20 Q What does it do?</p> <p>21 A It makes -- it will -- it -- it holds data</p> <p>22 and allows a user to access that data at scale, very</p> <p>23 big, large amounts of data.</p> <p>24 Q And what types of data does it allow users</p> <p>25 to store?</p>	<p style="text-align: right;">Page 24</p> <p>1 A Yes. I mean, we use many. The ones,</p> <p>2 though, that -- that -- as most businesses do, the</p> <p>3 ones, though, that I'm far more familiar are the</p> <p>4 BigQuery, as we were just discussing, and then</p> <p>5 another product that we use called Google Analytics,</p> <p>6 which we use as a data collection tool as well.</p> <p>7 Q What types of data does Google Analytics</p> <p>8 collect?</p> <p>9 A Google Analytics will collect data about</p> <p>10 essentially reader, user activity. So think of it</p> <p>11 as the all -- like the attributes of the page that</p> <p>12 the reader is reading, the known attributes of the</p> <p>13 reader's browser, as well as the events that may</p> <p>14 occur on that page to some degree.</p> <p>15 Q And does the Times share any of its data</p> <p>16 with Google?</p> <p>17 A No.</p> <p>18 MS. SCHELL: Object to form.</p> <p>19 BY MR. VOGT:</p> <p>20 Q Do you know what SimilarWeb is?</p> <p>21 A I do.</p> <p>22 Q What's SimilarWeb?</p> <p>23 A SimilarWeb is a third-party product that</p> <p>24 portrays data for websites across the internet.</p> <p>25 Q And when you say "portrays," what do you</p>
<p style="text-align: right;">Page 23</p> <p>1 A In the Times' application or in --</p> <p>2 Q In the Times. In The Times.</p> <p>3 A For the Times, the ones that I'm aware of,</p> <p>4 it stores our web data, our web and app data. It</p> <p>5 stores -- I believe it may store -- well, it stores</p> <p>6 that. It stores our -- the con- -- the data</p> <p>7 associated with our content, which we call metadata.</p> <p>8 So we have that in BigQuery as well. There's</p> <p>9 other -- there's other sources -- sources of data in</p> <p>10 there that I'm not privy to but aware of general</p> <p>11 areas maybe.</p> <p>12 Q When you -- and when you say web and app</p> <p>13 data, what do you mean by that?</p> <p>14 A We have -- we collect data on the page</p> <p>15 loads and some of the events that occur on those</p> <p>16 pages as it happens. We store that data. It</p> <p>17 eventually makes its way to BigQuery, I should say.</p> <p>18 There's a bit of a process there, but it's in Google</p> <p>19 Cloud. Google has several -- several products to</p> <p>20 sort of facilitate the -- the connection from the</p> <p>21 creation of the data to it appearing in a form that</p> <p>22 we can access via a structured query language. SQL</p> <p>23 it's commonly referred to.</p> <p>24 Q And does the Times use any other Google</p> <p>25 services or applications?</p>	<p style="text-align: right;">Page 25</p> <p>1 mean by that?</p> <p>2 A I'm -- they don't collect the data</p> <p>3 directly, so I'm unaware of how they get this data,</p> <p>4 and so I -- I used the word "portrays" in that sense</p> <p>5 in that it's not -- the websites that they are</p> <p>6 showing data for, it's not like that's the actual</p> <p>7 data that's been collected. It's their estimate, if</p> <p>8 you will.</p> <p>9 Q Do you use SimilarWeb?</p> <p>10 A Personally, no.</p> <p>11 Q Do you know if the Times uses SimilarWeb?</p> <p>12 A The Times does at times. Yes.</p> <p>13 Q What does the Times use SimilarWeb for?</p> <p>14 A High level understanding of traffic</p> <p>15 patterns in the industry, very high level.</p> <p>16 Q When you say "high level," what do you</p> <p>17 mean by that?</p> <p>18 A We will look at big directional shifts.</p> <p>19 To my knowledge, it's mostly used for understanding</p> <p>20 big directional shifts in the industry.</p> <p>21 Q And what does the Times use that data for?</p> <p>22 A Perspective.</p> <p>23 MS. SCHELL: Object to the form.</p> <p>24 You can answer.</p> <p>25 THE WITNESS: For providing perspective.</p>

Justin Stille

May 29, 2020

26 to 29

<p style="text-align: right;">Page 26</p> <p>1 BY MR. VOGT:</p> <p>2 Q And does the Times use that data to make</p> <p>3 business decisions?</p> <p>4 A Not that I'm aware of.</p> <p>5 Q And does the Times have any sort of like</p> <p>6 contractual agreement or user agreement with</p> <p>7 SimilarWeb?</p> <p>8 MS. SCHELL: Shane -- object to form.</p> <p>9 We're getting a little far afield of topic 6.</p> <p>10 I understand you have some room in a</p> <p>11 deposition, but I'm not losing sight of how</p> <p>12 this relates to the topic we have.</p> <p>13 MR. VOGT: This is my last question in</p> <p>14 this area.</p> <p>15 MS. SCHELL: Okay.</p> <p>16 THE WITNESS: And -- sorry. The question</p> <p>17 again?</p> <p>18 BY MR. VOGT:</p> <p>19 Q Do you know whether or not the Times has a</p> <p>20 contractual agreement or user-type agreement with</p> <p>21 SimilarWeb?</p> <p>22 A I'm not sure of contracts. I know it is a</p> <p>23 product that we have.</p> <p>24 Q Okay. What's Chartbeat?</p> <p>25 A Chartbeat is another what I'm calling</p>	<p style="text-align: right;">Page 28</p> <p>1 Q And when you say "article performance,"</p> <p>2 what do you mean by that?</p> <p>3 A There -- there are a few different aspects</p> <p>4 of Stela. The article performance is what I'm</p> <p>5 calling the Stela pageview, which will show the</p> <p>6 pageviews to a given article over time.</p> <p>7 Q And what does pageviews mean?</p> <p>8 A A pageview is any -- is a term used to</p> <p>9 describe any time content is loaded on any screen.</p> <p>10 Q And "on any screen," does that include</p> <p>11 mobile applications?</p> <p>12 A Yes. But to be specific, it would be --</p> <p>13 pageviews for the Times, it would be pageviews for</p> <p>14 Stela, and it's related to our core news and opinion</p> <p>15 content on our app, on our -- now, which is one web</p> <p>16 application which serves both mobile and desktop</p> <p>17 web.</p> <p>18 Q And what's -- what is now? Is that an</p> <p>19 acronym?</p> <p>20 A No. I'm referring to earlier when we had</p> <p>21 two separate mobile sites. We only have the one</p> <p>22 now, the one site, the one web application that</p> <p>23 serves both mobile and desktop.</p> <p>24 Q You said there is one now. When did</p> <p>25 the Times stop using two sites?</p>
<p style="text-align: right;">Page 27</p> <p>1 third-party analytics tool. So it is the name of a</p> <p>2 company and the name of their flagship tool that</p> <p>3 collects data on websites and shows that to users in</p> <p>4 real time.</p> <p>5 Q What types of data does Chartbeat collect?</p> <p>6 A Chartbeat has also a -- a bunch of</p> <p>7 different data points it collects and shows.</p> <p>8 Primarily it's used to understand how many</p> <p>9 concurrents -- and that's a Chartbeat term -- how</p> <p>10 many concurrent browsers are open to a particular</p> <p>11 story at a particular time.</p> <p>12 Q And are there any other third-party</p> <p>13 analytics services or companies that The New York</p> <p>14 Times uses?</p> <p>15 A Yes. I couldn't name them all, but</p> <p>16 depending on that definition -- you know, the scope</p> <p>17 of that definition, we -- you know, we -- we have</p> <p>18 many other vendors that we work with from time to</p> <p>19 time, but those are the biggest, you know, tools.</p> <p>20 Q What -- what is Stela?</p> <p>21 A Stela is an internal tool that we use to</p> <p>22 understand article performance.</p> <p>23 Q And when you say "an internal tool," does</p> <p>24 that mean it was created in-house at the Times?</p> <p>25 A Correct.</p>	<p style="text-align: right;">Page 29</p> <p>1 A The -- the -- there's really one site with</p> <p>2 two different applications serving the page. The</p> <p>3 mobile -- I'm not aware when that was sort of</p> <p>4 sunsetted, the mobile application.</p> <p>5 Q Do you know if the mobile application was</p> <p>6 being used in June of 2017?</p> <p>7 MS. SCHELL: I'm going to object. Shane,</p> <p>8 I don't mind if you ask a little bit of</p> <p>9 background so that you can frame your</p> <p>10 questions, but we have not prepared Justin on</p> <p>11 all of the background of the applications</p> <p>12 the Times uses and the operations, which your</p> <p>13 question is about social media accounts and</p> <p>14 internal data. So I just want to make that</p> <p>15 clear for the record.</p> <p>16 MR. VOGT: Okay.</p> <p>17 MS. SCHELL: But you can answer the</p> <p>18 question if you know, Justin.</p> <p>19 THE WITNESS: I mean, I'm not certain if</p> <p>20 it was or wasn't.</p> <p>21 BY MR. VOGT:</p> <p>22 Q Okay. Does Stela have a dashboard?</p> <p>23 A Yes. It has a -- a view.</p> <p>24 Q And what is -- what does that consist of?</p> <p>25 A It consists of a few different components.</p>

May 29, 2020

30 to 33

<p style="text-align: right;">Page 30</p> <p>1 One is, as I mentioned, the -- essentially a</p> <p>2 timeline of pageviews to a particular article over</p> <p>3 time. Included in that is several different ways to</p> <p>4 just look at that. One way is by device. Right.</p> <p>5 So you know how many pageviews on an app versus a</p> <p>6 desktop versus essentially a mobile phone. It also</p> <p>7 allows the -- it also shows a view where you can see</p> <p>8 what referred each of those pageviews. And that</p> <p>9 could be -- that is aggregated as Facebook, Twitter,</p> <p>10 New York Times internal, external. There's a -- I</p> <p>11 don't remember all the categories, but any -- any of</p> <p>12 our different channel breakdown.</p> <p>13 Q I'm going to show you what I'm going to</p> <p>14 mark as Plaintiff's Deposition Exhibit 293.</p> <p>15 A Okay. Click on it?</p> <p>16 Q Yes.</p> <p>17 A Okay. Appears to be an article. Also not</p> <p>18 familiar with this. I may have read this, actually,</p> <p>19 back in the day, to be honest. Would you like me to</p> <p>20 read it?</p> <p>21 Q No. I'm just going to ask you a couple of</p> <p>22 things based on it.</p> <p>23 A Okay.</p> <p>24 MS. SCHELL: Mr. Stile, you are welcome to</p> <p>25 read it, if you would like to.</p>	<p style="text-align: right;">Page 32</p> <p>1 would also maintain for things like corrections?</p> <p>2 A In other words, did the story offer a</p> <p>3 correction?</p> <p>4 Q Yes. If the story was edited or a</p> <p>5 correction was added, is there anything within Stela</p> <p>6 that would monitor that, like with this "time of</p> <p>7 change" information in the chart we're looking at?</p> <p>8 MS. SCHELL: Object to form.</p> <p>9 THE WITNESS: At the time in 2017, I'm not</p> <p>10 aware. I do not believe it does so now, but</p> <p>11 that data does exist.</p> <p>12 BY MR. VOGT:</p> <p>13 Q Where does that data exist?</p> <p>14 A Likely in our CMS.</p> <p>15 Q Would that be Scoop?</p> <p>16 A Yes. Or the database that stores our CMS</p> <p>17 data, content management system, which we call</p> <p>18 Scoop.</p> <p>19 Q And is the content management system -- is</p> <p>20 that integrated with Stela?</p> <p>21 A No.</p> <p>22 Q And then if you go to the third page of</p> <p>23 this --</p> <p>24 A Oh. Sorry. I answered that -- what do</p> <p>25 you mean integrated specifically?</p>
<p style="text-align: right;">Page 31</p> <p>1 BY MR. VOGT:</p> <p>2 Q Yes. Happy to read it if you want to.</p> <p>3 A Yeah. I'll give it a quick -- thank you.</p> <p>4 MS. SCHELL: Let us know when you've taken</p> <p>5 a look for a while. Look up.</p> <p>6 THE WITNESS: Okay. Done. Sorry. I'm a</p> <p>7 bit of a slow reader.</p> <p>8 MR. VOGT: Oh, that's fine.</p> <p>9 MS. SCHELL: Take your time. I just</p> <p>10 wanted to make sure you knew to let us know.</p> <p>11 THE WITNESS: Yeah. No. I was in the</p> <p>12 last sentence when you said it.</p> <p>13 BY MR. VOGT:</p> <p>14 Q So the first thing I wanted to ask you</p> <p>15 about is on the second page of the article there's</p> <p>16 an -- an image there. It says "Any headline</p> <p>17 changes?" And it has "Time of Change." Do you see</p> <p>18 that?</p> <p>19 A Yes.</p> <p>20 Q Is that something that can be found within</p> <p>21 Stela?</p> <p>22 A At the time of this article, yes, and I</p> <p>23 believe so now.</p> <p>24 Q And is there something similar to this</p> <p>25 particular image that's in the article that Stela</p>	<p style="text-align: right;">Page 33</p> <p>1 Q Well, just like what we were talking about</p> <p>2 there, if Stela generated something like this chart</p> <p>3 that we were looking at, would it -- would it pull</p> <p>4 the data on the time of change from the content</p> <p>5 management system?</p> <p>6 MS. SCHELL: Object to form.</p> <p>7 THE WITNESS: The same data source. Yes.</p> <p>8 BY MR. VOGT:</p> <p>9 Q And then it goes --</p> <p>10 A Like time of change of headline.</p> <p>11 Q Okay. And if you go to the third page.</p> <p>12 A Yes.</p> <p>13 Q It says, "Stela is a Times analytics tool</p> <p>14 that pulls in data from multiple sources and</p> <p>15 presents it in one place, with simplified visuals</p> <p>16 and non-jargony categories catered towards</p> <p>17 journalists."</p> <p>18 Is that a fair description of what Stela</p> <p>19 is?</p> <p>20 A Yes, though I'm not sure of the word</p> <p>21 "sources" here. But other than that, I -- I think</p> <p>22 that's a fair statement.</p> <p>23 Q And you're referencing there that phrase</p> <p>24 that says "pulls in data from multiple sources"?</p> <p>25 A Yes.</p>

May 29, 2020

34 to 37

<p style="text-align: right;">Page 34</p> <p>1 Q And you're not sure about the word</p> <p>2 "sources" why?</p> <p>3 A I'm just not aware of how many sources</p> <p>4 that it pulls from. It's also an ambiguous sort of</p> <p>5 term, you know. You know, all Times data can be one</p> <p>6 source, if we have it in different places at</p> <p>7 multiple sources. I'm not sure what this -- this --</p> <p>8 it looks like not a quote -- but this statement</p> <p>9 refers to specifically.</p> <p>10 Q And to your knowledge, does Stela pull in</p> <p>11 data from like the third-party analytics</p> <p>12 applications that we had talked about earlier?</p> <p>13 A It -- not that I'm aware of. Not from</p> <p>14 Chart -- which were Chartbeat, SimilarWeb --</p> <p>15 Q Right. Stuff like that?</p> <p>16 A -- Google Analytics. No. I mean, it's</p> <p>17 primarily powered from our internal tracking system,</p> <p>18 which we call Event Tracker. That powers a good</p> <p>19 portion of it. The -- what was the -- the headline</p> <p>20 changes here, we've talked about that, where that</p> <p>21 comes from. The "What is the conversation around</p> <p>22 this story?" -- this -- this part comes from our</p> <p>23 site as well, people submitting comments.</p> <p>24 What else is in this? Yeah. So I don't</p> <p>25 see them in there. Let's see. Social promotions --</p>	<p style="text-align: right;">Page 36</p> <p>1 accounts, for example.</p> <p>2 Q And what's Upshot?</p> <p>3 A Upshot is a section on the Times, a desk</p> <p>4 as well as a section.</p> <p>5 Q And then if you go back to page 3 of this</p> <p>6 exhibit that we were looking at --</p> <p>7 A Mmm-hmm.</p> <p>8 Q -- there's -- there's an image in the</p> <p>9 middle of that page for "Total pageviews." Do you</p> <p>10 know what that is?</p> <p>11 A The image or the -- the term?</p> <p>12 Q Well, the image. Like is this -- is this</p> <p>13 a --</p> <p>14 A This is a --</p> <p>15 Q -- screenshot of something out of Stela?</p> <p>16 A Correct. Yes.</p> <p>17 MS. SCHELL: Object to the form.</p> <p>18 THE WITNESS: Yes. This is the -- this is</p> <p>19 the -- the view I was explaining in the</p> <p>20 beginning where it breaks it down by the -- you</p> <p>21 know, a phone, a tablet. I guess this is by</p> <p>22 device: phone, tablet, and desktop.</p> <p>23 BY MR. VOGT:</p> <p>24 Q And would -- would some -- and I think you</p> <p>25 called this a timeline before of pageviews. Is that</p>
<p style="text-align: right;">Page 35</p> <p>1 oh, sorry. The social promotions, what you would</p> <p>2 see here on page -- page 4 -- it's not on this</p> <p>3 actual paper, but it's in the PDF at page 4, the --</p> <p>4 those social promotions, where it shows here an</p> <p>5 aggregation of likes, comments, and shares this</p> <p>6 particular article got on what appears to be</p> <p>7 Facebook is data that comes from Facebook.</p> <p>8 Q And on that particular topic, you were</p> <p>9 talking about the "Social Promotions" image that's</p> <p>10 on page 4. Does Stela maintain something like this</p> <p>11 similar for Twitter?</p> <p>12 A It -- yes. As I recall, it does. And</p> <p>13 the -- what it is showing here, to be specific, is</p> <p>14 for The New York Times account. That's -- that's</p> <p>15 what the access -- the data that Facebook provides</p> <p>16 us is specifically only to our account.</p> <p>17 Q And when you say "our account," what are</p> <p>18 you referring to?</p> <p>19 A You'll see there's a column that says</p> <p>20 "Account." Facebook, you have essentially a page,</p> <p>21 and a page is considered an account. So the</p> <p>22 New York Times has a page. Upshot at the time had a</p> <p>23 separate Facebook page. Well-NYT at the time had a</p> <p>24 separate Facebook page. Those are the accounts.</p> <p>25 But we don't have access to other publishers'</p>	<p style="text-align: right;">Page 37</p> <p>1 right?</p> <p>2 A Correct.</p> <p>3 Q And would each piece of content such as an</p> <p>4 article or an editorial -- would it have one of</p> <p>5 these timeline of pageviews within Stela?</p> <p>6 MS. SCHELL: Object to form.</p> <p>7 THE WITNESS: I can answer. Yes?</p> <p>8 MS. SCHELL: Yes, you can answer.</p> <p>9 BY MR. VOGT:</p> <p>10 Q Yes, you can answer.</p> <p>11 A Okay. Great. Not every single piece of</p> <p>12 content has this, but many, many do.</p> <p>13 Q Do you know whether or not the editorial</p> <p>14 that's involved in this case, "America's Lethal</p> <p>15 Politics," would it have had a total pageview</p> <p>16 timeline like the one we're looking at within Stela?</p> <p>17 A Yes.</p> <p>18 Q And how would you go about pulling that</p> <p>19 up, that timeline, for the editorial?</p> <p>20 A Now or in 2017?</p> <p>21 Q Now.</p> <p>22 A Now, I would go to either the URL or Stela</p> <p>23 and enter the URL into Stela, and Stela would</p> <p>24 populate with the most recent data of the last I</p> <p>25 believe it's two weeks, how many pageviews are</p>

May 29, 2020

38 to 41

<p style="text-align: right;">Page 38</p> <p>1 collected in the last two weeks, in this case of a</p> <p>2 story that was published in 2017.</p> <p>3 Q And so if you went into Stela now, could</p> <p>4 you go back and pull the total pageviews timeline</p> <p>5 for a period from like June 14th to</p> <p>6 June 16th of 2017?</p> <p>7 MS. SCHELL: Object to form.</p> <p>8 THE WITNESS: There's a new -- I'm sorry?</p> <p>9 MS. SCHELL: Object to form, but you can</p> <p>10 answer.</p> <p>11 THE WITNESS: There's a new</p> <p>12 functionality -- so when the Stela was</p> <p>13 initially built, it was only keeping recent</p> <p>14 data. So it's -- it was limited to when you</p> <p>15 pulled it. So if you pulled it outside of a</p> <p>16 two-week range, let's say, when a story was</p> <p>17 published, you would miss the pageviews that</p> <p>18 the data published.</p> <p>19 A new feature was introduced into Stela</p> <p>20 relative recently that allows one to click and</p> <p>21 see what the pageviews were the first seven</p> <p>22 days of traffic.</p> <p>23 BY MR. VOGT:</p> <p>24 Q Does that have a name?</p> <p>25 A Not that I'm aware of. It's informally,</p>	<p style="text-align: right;">Page 40</p> <p>1 about the shooting of the congressman. I think it</p> <p>2 was called the Steve Scalise -- I don't recall the</p> <p>3 title.</p> <p>4 Q Did you print those things out?</p> <p>5 A No.</p> <p>6 Q Did you save them anywhere?</p> <p>7 A Yes.</p> <p>8 Q So you still have them?</p> <p>9 A Yes.</p> <p>10 Q Other than the published time view in</p> <p>11 Stela for the "America's Lethal Politics" editorial,</p> <p>12 what other images or data like what we're looking at</p> <p>13 here, the total pageview thing -- what else did it</p> <p>14 pull up?</p> <p>15 MS. SCHELL: Object to form, but you can</p> <p>16 answer if you understand.</p> <p>17 THE WITNESS: Sure. Are you looking</p> <p>18 for -- I guess I'm not sure what -- you mean</p> <p>19 the types of data or specifics on that data?</p> <p>20 BY MR. VOGT:</p> <p>21 Q Well, like did -- when you pulled up data</p> <p>22 for the "America's Lethal Politics" editorial</p> <p>23 through Stela, did it pull up like the "Social</p> <p>24 Promotions" information on page 4?</p> <p>25 A Yes, it did.</p>
<p style="text-align: right;">Page 39</p> <p>1 which could be a formal name, called published time</p> <p>2 view, and that's a new feature that, you know, is</p> <p>3 recently available.</p> <p>4 Q And is that new feature available for the</p> <p>5 editorial?</p> <p>6 A For which editorial?</p> <p>7 Q "America's Lethal Politics."</p> <p>8 A Yes.</p> <p>9 Q Have you -- have you pulled the published</p> <p>10 time view for "America's Lethal Politics"?</p> <p>11 A Yes.</p> <p>12 Q When did you do that?</p> <p>13 A Yesterday and maybe two days ago as well,</p> <p>14 as I was preparing for -- for this.</p> <p>15 Q Did you pull any other reports related to</p> <p>16 "America's Lethal Politics" out of Stela?</p> <p>17 A Yes.</p> <p>18 Q What else did you pull?</p> <p>19 A I pulled the original piece, the news</p> <p>20 piece that we did on the shooting.</p> <p>21 Q When you say the original news piece, are</p> <p>22 you referring to the "America's Lethal Politics"</p> <p>23 editorial itself?</p> <p>24 A No. That -- that's an opinion piece. The</p> <p>25 news piece was something -- the first piece we wrote</p>	<p style="text-align: right;">Page 41</p> <p>1 Q Did it pull up the "What is the</p> <p>2 conversation around this story" information that's</p> <p>3 on page 5?</p> <p>4 A Page 5. I'm not --</p> <p>5 MS. SCHELL: Object to form.</p> <p>6 THE WITNESS: I'm not aware if this story</p> <p>7 had comments enabled. I don't recall seeing</p> <p>8 any comments.</p> <p>9 BY MR. VOGT:</p> <p>10 Q If it did have -- if it did have comments</p> <p>11 enabled, would it have automatically generated the</p> <p>12 "What is the conversation around this story"</p> <p>13 information on page 5?</p> <p>14 MS. SCHELL: Object to form.</p> <p>15 THE WITNESS: I'm not -- I can answer.</p> <p>16 Yes?</p> <p>17 MR. VOGT: Yes.</p> <p>18 MS. SCHELL: Yes. You can answer if you</p> <p>19 understand.</p> <p>20 THE WITNESS: I'm not familiar with the</p> <p>21 background logic that decides what would appear</p> <p>22 there.</p> <p>23 BY MR. VOGT:</p> <p>24 Q Can you recall off the top of your head --</p> <p>25 let me ask you this: Did -- when you pulled up</p>

May 29, 2020

42 to 45

<p style="text-align: right;">Page 42</p> <p>1 Stela -- scratch that.</p> <p>2 When you pulled up information in Stela</p> <p>3 related to the editorial, did it include anything</p> <p>4 that was similar to the "changes" information that</p> <p>5 we had first looked at that are on page 2 of</p> <p>6 Exhibit 293?</p> <p>7 MS. SCHELL: Object to form --</p> <p>8 THE WITNESS: The "headline changes"?</p> <p>9 MS. SCHELL: -- but you can answer.</p> <p>10 BY MR. VOGT:</p> <p>11 Q Yes.</p> <p>12 A I don't recall, but --</p> <p>13 Q Do you recall anything --</p> <p>14 MS. SCHELL: Can you repeat --</p> <p>15 THE COURT REPORTER: I couldn't hear him.</p> <p>16 BY MR. VOGT:</p> <p>17 Q What did you say? I think you said --</p> <p>18 A I said I didn't -- I said I didn't see it,</p> <p>19 but it may have been there. I don't recall seeing</p> <p>20 it.</p> <p>21 Q Is there anything you can think of as we</p> <p>22 sit here today other than what we've talked about so</p> <p>23 far that would have been pulled up in that Stela</p> <p>24 report on "America's Lethal Politics"?</p> <p>25 A That would have been or was?</p>	<p style="text-align: right;">Page 44</p> <p>1 THE WITNESS: Can you -- the "unique</p> <p>2 pageview" term has several different uses. Is</p> <p>3 there a particular definition that you -- you</p> <p>4 have for that?</p> <p>5 BY MR. VOGT:</p> <p>6 Q No. No.</p> <p>7 A It's -- it's every -- essentially what it</p> <p>8 is, though, it's every time a page will load from</p> <p>9 one of our servers onto a browser, it records a</p> <p>10 pageview. That includes any time, you know, it's</p> <p>11 loaded in an app, on a website -- sorry -- on our</p> <p>12 website on a desktop, on a browser, from any user or</p> <p>13 undetermined box or -- that would be -- that would</p> <p>14 be the extent of it. Some sort of computer</p> <p>15 accessing our content.</p> <p>16 Q So if someone on their phone accessed the</p> <p>17 URL for "American's Lethal Politics" two times, that</p> <p>18 would be considered two pageviews?</p> <p>19 A Correct.</p> <p>20 Q And then do you know what Reader Scope is?</p> <p>21 A Yes. I'm not --</p> <p>22 Q Do you use that at all --</p> <p>23 A I do not.</p> <p>24 Q Okay. That's what I was going to ask you,</p> <p>25 whether or not you used it.</p>
<p style="text-align: right;">Page 43</p> <p>1 Q That was. I'm sorry.</p> <p>2 A Was. Yeah. No. I just -- essentially</p> <p>3 Stela has the components, and sometimes they show,</p> <p>4 sometimes they don't, based on some logic of the</p> <p>5 application. We talked about social, which I recall</p> <p>6 seeing. We talked about the pageviews, which I</p> <p>7 recall seeing. And there's a -- there's another cut</p> <p>8 of the -- this "total pageviews" graphic, so the</p> <p>9 same exact graphic, except instead of it being</p> <p>10 divided in this case by device, phone, tablet,</p> <p>11 desktop, it is split up by what we call refer, and</p> <p>12 that means the prior domain that or prior page that</p> <p>13 referred a browser to the current story or the story</p> <p>14 in question in the Stela report, which in this case</p> <p>15 would be "America's Lethal Politics."</p> <p>16 Q And you reviewed that information in</p> <p>17 anticipation of your deposition. Is that right?</p> <p>18 A I looked at it. Yes.</p> <p>19 Q In the -- you mentioned pageviews in that</p> <p>20 response, and we've been talking about this graphic</p> <p>21 on page 3 of article -- of Exhibit 293. Pageviews</p> <p>22 there is -- is that unique pageviews?</p> <p>23 A No.</p> <p>24 MS. SCHELL: Object to form.</p> <p>25 You can answer if you understand.</p>	<p style="text-align: right;">Page 45</p> <p>1 A No. That's more of an advertising</p> <p>2 product.</p> <p>3 Q And do you know whether or not that</p> <p>4 product, though -- does it integrate data from</p> <p>5 Stela?</p> <p>6 MS. SCHELL: Object to form.</p> <p>7 THE WITNESS: Integrate.</p> <p>8 BY MR. VOGT:</p> <p>9 Q Or share data?</p> <p>10 A Yeah. I mean, Stela -- you know, the way</p> <p>11 that it works is Stela doesn't have -- the answer to</p> <p>12 that question is I don't think so. I don't know</p> <p>13 especially what it would have been in 2017. I think</p> <p>14 it's mostly from -- not from the same data source,</p> <p>15 if I recall, but I -- I would just say I don't know</p> <p>16 that answer.</p> <p>17 Q And then similar question along those</p> <p>18 lines, do you know what Campaign Scope is?</p> <p>19 A I do not.</p> <p>20 Q And do you know what NYT Demo is?</p> <p>21 A Not as a -- no. I've heard the term for</p> <p>22 other things that we do, but I don't know of it as a</p> <p>23 tool, if that's what you're asking.</p> <p>24 Q Do you know what Project Feels is?</p> <p>25 A Yes.</p>

Justin Stile

46 to 49

Page 46

1 Q What is that?

2 MS. SCHELL: Object to form.

3 THE WITNESS: Project --

4 MS. SCHELL: Justin, just one second,

5 please.

6 THE WITNESS: Yes.

7 MS. SCHELL: Again, Shane, I don't mind

8 you getting kind of the lay of the land so you

9 can ask your questions, but this is not the --

10 Times' programs, applications, computer systems

11 were not noticed as a topic, and Justin is not

12 prepared for them. Again, I want to make that

13 clear for the record.

14 MR. VOGT: Yes. I understand.

15 MS. SCHELL: Okay. Just making sure and

16 making sure it's on the record.

17 MR. VOGT: Yes.

18 BY MR. VOGT:

19 Q So you can answer.

20 MS. SCHELL: You can answer if you know.

21 BY MR. VOGT:

22 Q Do you know what Project Feels is?

23 A So as a -- Project Feels was a project

24 that the data science arm of the digital insights

25 group, which is the group I belong to, undertook

Page 47

1 maybe a couple years ago -- I'm not sure on the

2 timing -- as an ad product tool that equated reader

3 sentiment, I believe, with some of our content -- or

4 not reader sentiment -- sorry -- tried to estimate

5 what a particular reader response would be to a

6 particular article.

7 Q Is Project Feels -- is that still being

8 used by the Times?

9 A I am not aware. And it was -- again, that

10 being just a tool that I never used nor -- nor do we

11 with the coverage analytics, and it is an

12 advertising tool that we do to create ad products.

13 Q Understood.

14 MR. VOGT: Why don't we take a break

15 there? We've gone going about an hour. And --

16 MS. SCHELL: Okay.

17 MR. VOGT: -- we'll come back at 1:30.

18 THE WITNESS: Thank you.

19 MS. SCHELL: Do you want to go off the

20 record?

21 MR. VOGT: Yes. Let's go off the record.

22 VIDEO TECHNICIAN: Off video record at

23 1:12 p.m.

24 (The deposition was recessed from

25 1:12 p.m. to 1:32 p.m.)

Page 48

1 VIDEO TECHNICIAN: Back on the video

2 record at 1:32 p.m.

3 BY MR. VOGT:

4 Q Mr. Stile, did you provide a copy of the

5 Stela report that we were talking about earlier

6 concerning "America's Lethal Politics" to anyone?

7 MS. SCHELL: Objection. To the extent you

8 discussed or provided anything to counsel, just

9 to be very clear going forward, that's not the

10 question. The question is only if you provided

11 it to anyone else.

12 THE WITNESS: No.

13 BY MR. VOGT:

14 Q And are you familiar with the "America's

15 Lethal Politics" editorial?

16 A Yes.

17 Q And do you know was the "America's Lethal

18 Politics" editorial -- was it published using AMP?

19 MS. SCHELL: Object to the form.

20 You can answer.

21 THE WITNESS: I am not aware.

22 BY MR. VOGT:

23 Q Do you know what AMP is?

24 A I do.

25 Q What is it?

Page 49

1 A AMP stands for accelerated mobile pages,

2 and it's a format that Google -- it's an open format

3 that Google has introduced to the web community.

4 Q Does The New York Times use AMP?

5 A Yes.

6 MS. SCHELL: Object to form.

7 BY MR. VOGT:

8 Q Do you know if The New York Times was

9 using AMP in 2017 when the "America's Lethal

10 Politics" editorial was published?

11 A It was --

12 MS. SCHELL: I'm just going to lodge the

13 same objection about this being outside the

14 scope of the topics.

15 BY MR. VOGT:

16 Q What was your response?

17 A It was used sparingly. So not every piece

18 had the AMP version.

19 Q Is there a way to tell whether or not

20 "America's Lethal Politics" was published using AMP?

21 A Yes.

22 Q How would you do that?

23 A Actually, at the time of publish, you can

24 retrospectively -- you can see it in AMP now, but

25 that doesn't necessarily mean it was then. We may

May 29, 2020

50 to 53

<p style="text-align: right;">Page 50</p> <p>1 have internal systems I'm not aware that would allow</p> <p>2 us to understand at the time it was published if it</p> <p>3 was in AMP, but I'm sure it can be deduced.</p> <p>4 There's --</p> <p>5 Q Do you know --</p> <p>6 THE COURT REPORTER: I'm sorry. I didn't</p> <p>7 hear the last.</p> <p>8 THE WITNESS: There's a lot of ways to</p> <p>9 determine that. I'd have to think.</p> <p>10 BY MR. VOGT:</p> <p>11 Q And we had talked earlier in the -- in</p> <p>12 your deposition about The New York Times' home page.</p> <p>13 What is the home page?</p> <p>14 A The home page is the page that appears</p> <p>15 when you type "NYTimes.com" into a web browser.</p> <p>16 Q And do you know whether or not the</p> <p>17 editorial "America's Lethal Politics" appeared on</p> <p>18 The New York Times home page?</p> <p>19 A I do not know.</p> <p>20 Q Is there anything within Stela that would</p> <p>21 track that information?</p> <p>22 MS. SCHELL: Object to form, but you can</p> <p>23 answer.</p> <p>24 THE WITNESS: Not that I'm aware of in</p> <p>25 2017.</p>	<p style="text-align: right;">Page 52</p> <p>1 Q And did -- when it was published on the</p> <p>2 website, do you know whether it had more than one</p> <p>3 URL?</p> <p>4 A You mean -- in practice, we -- we don't</p> <p>5 have -- well, give me a second. In 2017, we would</p> <p>6 have had a mobile -- separate mobile app serving</p> <p>7 pages, and what that means is those URLs used to</p> <p>8 appear with a Mobile.NYTimes.com and then slash, and</p> <p>9 then the rest of the URL indicates the year, the</p> <p>10 date of publish, the desk or section where it</p> <p>11 appears, and then the last part is the descriptor</p> <p>12 for the article.</p> <p>13 So in 2017, the mobile site likely would</p> <p>14 have had its own mobile URL, but the content shown</p> <p>15 on both URLs is the same and fetched from the same</p> <p>16 source. So they are not -- the application serving</p> <p>17 these pages are different, which results in these</p> <p>18 different URLs, but the data that it gets them to</p> <p>19 display, in this case the body of the opinion piece,</p> <p>20 would have been the same.</p> <p>21 Q And so if a -- if a -- if a user on a</p> <p>22 mobile application were to view "America's Lethal</p> <p>23 Politics" back in June of 2017, when it was first</p> <p>24 published on the 14th, if they clicked on a link to</p> <p>25 see it, where would they go?</p>
<p style="text-align: right;">Page 51</p> <p>1 BY MR. VOGT:</p> <p>2 Q Was there any system within The New York</p> <p>3 Times that would have tracked whether the editorial</p> <p>4 "America's Lethal Politics" appeared on the home</p> <p>5 page in 2017?</p> <p>6 A When you say "system," do you mean like a</p> <p>7 prepared report?</p> <p>8 Q A prepared report or anything that would</p> <p>9 enable someone to see if the editorial appeared on</p> <p>10 the home page and for how long.</p> <p>11 A I don't believe we had a trusted</p> <p>12 methodology in 2017 to do that.</p> <p>13 Q And part of the topic on which you've</p> <p>14 been -- have been designated to testify is the</p> <p>15 dissemination of "America's Lethal Politics." So I</p> <p>16 wanted to ask you, How was "America's Lethal</p> <p>17 Politics" disseminated?</p> <p>18 MS. SCHELL: Object to form.</p> <p>19 You can answer if you understand.</p> <p>20 THE WITNESS: Yeah. Can you, I guess,</p> <p>21 unpack "disseminated" so I can answer clearly?</p> <p>22 BY MR. VOGT:</p> <p>23 Q Sure. Was "America's Lethal Politics"</p> <p>24 published online on The New York Times' website?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 53</p> <p>1 MS. SCHELL: Object to form.</p> <p>2 You can answer if you understand.</p> <p>3 THE WITNESS: Yeah. I mean, it -- I'll</p> <p>4 answer the question a little differently, but</p> <p>5 if they were on a phone with a mobile browser,</p> <p>6 in all likelihood they would arrive at</p> <p>7 Mobile.NYTimes.com --</p> <p>8 BY MR. VOGT:</p> <p>9 Q And then --</p> <p>10 A -- and then slash, the article.</p> <p>11 Q And then aside from going on the actual</p> <p>12 internet itself or using mobile, was the "America's</p> <p>13 Lethal Politics" editorial also available to people</p> <p>14 through the -- through any New York Times</p> <p>15 applications?</p> <p>16 MS. SCHELL: Object to form.</p> <p>17 You can answer if you understand.</p> <p>18 THE WITNESS: Yeah. I would just need</p> <p>19 some more specificity around "applications."</p> <p>20 BY MR. VOGT:</p> <p>21 Q Yeah. So did the -- did The New York</p> <p>22 Times in June of 2017 have any apps?</p> <p>23 A Apps as far as mobile -- like iOS apps,</p> <p>24 Android apps?</p> <p>25 Q Yes.</p>

May 29, 2020

54 to 57

<p style="text-align: right;">Page 54</p> <p>1 A Yes. We had what we call a core news app</p> <p>2 that would contain both news and opinion.</p> <p>3 Q And so if a -- if a mobile user had</p> <p>4 The New York Times core news app on their device,</p> <p>5 would "America's Lethal Politics" have been shown</p> <p>6 through that?</p> <p>7 MS. SCHELL: Object to form.</p> <p>8 THE WITNESS: If they clicked on a link to</p> <p>9 review it.</p> <p>10 BY MR. VOGT:</p> <p>11 Q And do you know if they clicked on the</p> <p>12 link within the app to view that, where would it</p> <p>13 direct them?</p> <p>14 MS. SCHELL: Object to form.</p> <p>15 THE WITNESS: The apps -- I don't know for</p> <p>16 that specific article. The app has</p> <p>17 essentially -- it works in an analogous way.</p> <p>18 Our app has its own application that serves the</p> <p>19 pages, so it's -- it's all within the app.</p> <p>20 BY MR. VOGT:</p> <p>21 Q And were there apps on iOS and Android</p> <p>22 devices -- was it available on both platforms in</p> <p>23 June of 2017?</p> <p>24 A iOS for sure. I'm not certain about</p> <p>25 Android, though we do have an Android app today.</p>	<p style="text-align: right;">Page 56</p> <p>1 stories specifically for Apple Watch users..."</p> <p>2 Do you see that?</p> <p>3 A I remember reading it. It's -- I'm sorry.</p> <p>4 The second page?</p> <p>5 Q Yeah. The second physical page.</p> <p>6 A Page 1 of 2 of the article?</p> <p>7 Q Yeah.</p> <p>8 A Gotcha. Crafting -- which paragraph is</p> <p>9 it?</p> <p>10 Q The very first one under the title.</p> <p>11 A Oh, gotcha. Yes. Sorry. Yes. I see it.</p> <p>12 Q All right. And did The New York Times</p> <p>13 actually do that?</p> <p>14 MS. SCHELL: Object to form.</p> <p>15 THE WITNESS: The New York Times did have</p> <p>16 an Apple Watch app.</p> <p>17 BY MR. VOGT:</p> <p>18 Q And do you know if --</p> <p>19 A And --</p> <p>20 Q Go ahead.</p> <p>21 A -- currently does as well. And currently</p> <p>22 does as well, I believe.</p> <p>23 Q And in connection with that Apple Watch</p> <p>24 app, did The New York Times create one sentence --</p> <p>25 one-sentence stories?</p>
<p style="text-align: right;">Page 55</p> <p>1 Q Was there also an app that was available</p> <p>2 for the Apple Watch?</p> <p>3 MS. SCHELL: Object to form.</p> <p>4 THE WITNESS: We had -- our core news app</p> <p>5 has an Apple Watch integration.</p> <p>6 BY MR. VOGT:</p> <p>7 Q And does that Apple Watch integration --</p> <p>8 does that differ at all from the core news app</p> <p>9 itself?</p> <p>10 MS. SCHELL: Object to form.</p> <p>11 THE WITNESS: Yeah. I mean, I don't know</p> <p>12 how Apple, you know, manages the two. I do not</p> <p>13 believe you could have a watch app without a</p> <p>14 phone app, but I am not aware.</p> <p>15 BY MR. VOGT:</p> <p>16 Q I'm going to send you Exhibit 305.</p> <p>17 A I am clicking to open it. I see it is</p> <p>18 also another document I have not seen. May I read</p> <p>19 it, or is there something --</p> <p>20 Q Yeah. You can go ahead and read it.</p> <p>21 A Thank you.</p> <p>22 Q It's not that long.</p> <p>23 A Okay. Okay.</p> <p>24 Q And so this article references the -- in</p> <p>25 the first paragraph "crafting of one-sentence</p>	<p style="text-align: right;">Page 57</p> <p>1 MS. SCHELL: Object to form.</p> <p>2 THE WITNESS: There were -- yes -- short</p> <p>3 one-sentence notes about a -- a given event or</p> <p>4 story or something.</p> <p>5 BY MR. VOGT:</p> <p>6 Q And would there be anything else that</p> <p>7 the --</p> <p>8 MS. SCHELL: Object to form.</p> <p>9 BY MR. VOGT:</p> <p>10 Q -- app would give in connection with a</p> <p>11 particular story other than the one-sentence note?</p> <p>12 MS. SCHELL: Object to form.</p> <p>13 THE WITNESS: I believe -- if I recall --</p> <p>14 I'm not sure in 2017, but sometime I believe we</p> <p>15 also had a graphic related to that.</p> <p>16 BY MR. VOGT:</p> <p>17 Q And do you know whether or not there was a</p> <p>18 one-sentence story created for the "America's Lethal</p> <p>19 Politics" editorial?</p> <p>20 A I do not.</p> <p>21 MS. SCHELL: Object to form.</p> <p>22 BY MR. VOGT:</p> <p>23 Q Would there be a way to find that out?</p> <p>24 MS. SCHELL: Object to form.</p> <p>25 THE WITNESS: I have never done this, so I</p>

Justin Steele

May 29, 2020

58 to 61

<p style="text-align: right;">Page 58</p> <p>1 don't know.</p> <p>2 BY MR. VOGT:</p> <p>3 Q Well, does -- does The New York Times</p> <p>4 maintain any analytics concerning users of the</p> <p>5 Apple Watch app?</p> <p>6 A No.</p> <p>7 MS. SCHELL: Shane, a quick objection</p> <p>8 here. I mean, Justin answered, but, again,</p> <p>9 this is a bit outside of the social media topic</p> <p>10 that was given. So we have not prepared Justin</p> <p>11 on this, and I don't know that it's relevant.</p> <p>12 MR. VOGT: Yeah. That's okay.</p> <p>13 MS. SCHELL: But he can answer that</p> <p>14 question.</p> <p>15 MR. VOGT: I'm done. I think he answered.</p> <p>16 BY MR. VOGT:</p> <p>17 Q And then do you know whether "America's</p> <p>18 Lethal Politics" was disseminated via any emails or</p> <p>19 newsletters?</p> <p>20 MS. SCHELL: Object to form.</p> <p>21 THE WITNESS: I do not know.</p> <p>22 BY MR. VOGT:</p> <p>23 Q And do you know whether "America's Lethal</p> <p>24 Politics" was disseminated through social media?</p> <p>25 And I mean by The New York Times.</p>	<p style="text-align: right;">Page 60</p> <p>1 MS. SCHELL: You can answer.</p> <p>2 THE WITNESS: Is that different from the</p> <p>3 other question? I just want to make sure I'm</p> <p>4 interpreting it right.</p> <p>5 BY MR. VOGT:</p> <p>6 Q Yeah. That's sort of why I re-asked it</p> <p>7 because I asked it generally, which I guess could be</p> <p>8 did anybody disseminate it.</p> <p>9 A Yeah.</p> <p>10 Q So I'm doing it specifically for</p> <p>11 The New York Times. So do you --</p> <p>12 A Yes.</p> <p>13 Q -- know specifically whether The New York</p> <p>14 Times disseminated the editorial "America's Lethal</p> <p>15 Politics" by email or newsletter?</p> <p>16 MS. SCHELL: Same objection, but you can</p> <p>17 answer.</p> <p>18 THE WITNESS: I don't specifically recall.</p> <p>19 I believe it may have been on a -- maybe -- I</p> <p>20 do believe there was one newsletter that drove</p> <p>21 a -- that drove some traffic but not a lot when</p> <p>22 I looked at Stela.</p> <p>23 BY MR. VOGT:</p> <p>24 Q And so when you say you recall that about</p> <p>25 a newsletter, you're basing that off of what you</p>
<p style="text-align: right;">Page 59</p> <p>1 A By The New York Times. It has appeared to</p> <p>2 be shared a few times on Twitter, the -- I think the</p> <p>3 initial release and then I think some follow-ups</p> <p>4 with the correction that was offered.</p> <p>5 Q And when you say it appears to be, what</p> <p>6 are you basing that on?</p> <p>7 A The information that I recall from viewing</p> <p>8 Stela.</p> <p>9 Q And do you remember any of the names of</p> <p>10 the social media accounts on which the editorial or</p> <p>11 the corrections were disseminated?</p> <p>12 MS. SCHELL: Object to form.</p> <p>13 THE WITNESS: I don't recall which had</p> <p>14 which or if, you know -- I know there was a</p> <p>15 time -- the NY Times opinion handle on Twitter.</p> <p>16 I do not recall if our main account tweeted it.</p> <p>17 BY MR. VOGT:</p> <p>18 Q And then just to clarify this, I asked you</p> <p>19 this, and I just want to make sure we are on the</p> <p>20 same page on it, but do you know whether or not</p> <p>21 The New York Times disseminated the "America's</p> <p>22 Lethal Politics" editorial through email or</p> <p>23 newsletters?</p> <p>24 MS. SCHELL: Object to form.</p> <p>25 THE WITNESS: Is that the same -- sorry.</p>	<p style="text-align: right;">Page 61</p> <p>1 looked at on Stela?</p> <p>2 A Correct.</p> <p>3 MS. SCHELL: Object to form.</p> <p>4 THE WITNESS: And there's other points of</p> <p>5 data, if I recall.</p> <p>6 BY MR. VOGT:</p> <p>7 Q Let me show you another exhibit. This is</p> <p>8 Exhibit 52.</p> <p>9 A Okay. I see it. Twitter, NY Times</p> <p>10 opinion. Yes. This is our opinion tweet. Okay.</p> <p>11 Yes. I see it.</p> <p>12 Q Do you see where it says in the smaller</p> <p>13 type, "We're sorry about this and we appreciate that</p> <p>14 our readers called us on the mistake. We've</p> <p>15 corrected the editorial."? And then there's some</p> <p>16 blue text there.</p> <p>17 A I see that. Yes.</p> <p>18 Q It says "nyti.ms/2stkBml," I think?</p> <p>19 A Yes.</p> <p>20 Q What is that?</p> <p>21 A That appears to be a -- either a Twitter</p> <p>22 or Bitly URL.</p> <p>23 Q And what is a Twitter or Bitly URL?</p> <p>24 A It is a -- it's a URL that's often used in</p> <p>25 Twitter, especially when there's a -- you know,</p>

May 29, 2020

62 to 65

<p style="text-align: right;">Page 62</p> <p>1 extreme character length. Essentially you could</p> <p>2 shorten the length of the -- of a URL. That's a</p> <p>3 standard that Twitter uses. So if you try to put</p> <p>4 a -- you know, a URL in a tweet, it converts it to a</p> <p>5 shortened one so that it can fit in the tweet.</p> <p>6 Q Where --</p> <p>7 A I don't know if it's -- who creates it.</p> <p>8 It might be a Twitter thing or Bitly or someone like</p> <p>9 that.</p> <p>10 Q And do you know if someone were to click</p> <p>11 on that Twitter or that Bitly URL that we were just</p> <p>12 looking at in The New York Times opinion tweet,</p> <p>13 where would that take them?</p> <p>14 A That would take them to --</p> <p>15 MS. SCHELL: Object to form.</p> <p>16 THE WITNESS: I'm sorry. That would take</p> <p>17 them to a -- that address that's there, which</p> <p>18 would redirect them to whatever that URL is</p> <p>19 originally linked to or shortened from.</p> <p>20 BY MR. VOGT:</p> <p>21 Q And does The New York Times maintain data</p> <p>22 concerning people who are redirected to the</p> <p>23 editorial URL on the Times website from that Twitter</p> <p>24 shortened URL?</p> <p>25 MS. SCHELL: Object to form.</p>	<p style="text-align: right;">Page 64</p> <p>1 Hold on.</p> <p>2 A A letter to the editor and an editorial?</p> <p>3 Q Did I send you 58 or 68?</p> <p>4 A There's a 58 with a helmet "Make America</p> <p>5 Great" written on the side of it.</p> <p>6 Q Oh. Wait. I sent you Plaintiff's. I'm</p> <p>7 sorry. I meant to send you Defendants'.</p> <p>8 A Not a problem.</p> <p>9 Q Yeah. That's the one I meant to send you.</p> <p>10 Let me send you that one. So now I'm sending you</p> <p>11 Defendants' Exhibit 58.</p> <p>12 A Gotcha. Okay. I see. "Stela Daily</p> <p>13 Opinion Report, Wednesday, June 14th, 2017." Okay.</p> <p>14 Yeah. I see that.</p> <p>15 Q Have you ever seen this document before?</p> <p>16 A Yes.</p> <p>17 Q All right. And what is it?</p> <p>18 A I saw this yesterday as I was preparing</p> <p>19 for this. This is a Stela report that is</p> <p>20 auto-generated for -- specifically for the opinion.</p> <p>21 I'm not sure where that -- that email address leads</p> <p>22 to.</p> <p>23 Q When you say "that email address," you're</p> <p>24 referring to stela_opinion@NYTimes.com?</p> <p>25 A Correct.</p>
<p style="text-align: right;">Page 63</p> <p>1 THE WITNESS: The URL that it came from is</p> <p>2 not a part of what we -- we -- we don't know</p> <p>3 this URL in our system. We do know the</p> <p>4 referrer as Facebook -- or sorry -- in this</p> <p>5 example, rather, Twitter.</p> <p>6 So I'm not aware -- I'm not aware of any</p> <p>7 technology that allows us to see that at -- you</p> <p>8 know, from a pageview on our site. There</p> <p>9 likely is -- I don't -- I'm not familiar with</p> <p>10 how this works, but there likely is some</p> <p>11 dashboard that will indicate how many clicks</p> <p>12 that specific URL got. I'm not that familiar</p> <p>13 with how Twitter sort of handles that or</p> <p>14 manages that for shortened URLs. Whether it's</p> <p>15 something we did or Twitter automatically does,</p> <p>16 I'm not clear in this case.</p> <p>17 BY MR. VOGT:</p> <p>18 Q Okay. Let me show you now Plaintiff's</p> <p>19 Exhibit 58.</p> <p>20 A Yes. In chat?</p> <p>21 Q Yes.</p> <p>22 A Cool. 68. Okay. It appears to be a</p> <p>23 opinion page from the newspaper from Friday,</p> <p>24 June 16.</p> <p>25 Q Let me make sure I have the right number.</p>	<p style="text-align: right;">Page 65</p> <p>1 Q And you said it's auto-generated. How</p> <p>2 often is a report like this auto-generated? Is it</p> <p>3 just once daily?</p> <p>4 MS. SCHELL: Object to form.</p> <p>5 You can answer.</p> <p>6 THE WITNESS: This specific one, which is</p> <p>7 a -- you know, the next day report, is. Yes.</p> <p>8 I'm not aware if you can get them more often</p> <p>9 than once daily.</p> <p>10 BY MR. VOGT:</p> <p>11 Q And who generates --</p> <p>12 A In email form.</p> <p>13 Q And you said they are auto-generated.</p> <p>14 Where is it auto-generated from?</p> <p>15 A The --</p> <p>16 MS. SCHELL: Object to form.</p> <p>17 THE WITNESS: The Stela application</p> <p>18 produces it.</p> <p>19 BY MR. VOGT:</p> <p>20 Q And then this one is a Stela opinion</p> <p>21 report for Wednesday, June 14th. And then it says</p> <p>22 "Stories published yesterday," and then it says,</p> <p>23 "You published 20 articles which have a total of</p> <p>24 696,000 pageviews as of midnight EST."</p> <p>25 Do you see that?</p>

May 29, 2020

66 to 69

<p style="text-align: right;">Page 66</p> <p>1 A Let me check. Yes. At the top. Yes.</p> <p>2 Q So would there have been a report like</p> <p>3 this one that would have been auto-generated for</p> <p>4 June 16th of 2017?</p> <p>5 MS. SCHELL: Object to the form.</p> <p>6 THE WITNESS: I'm not aware of how this</p> <p>7 was set up. Stela does have a capability that</p> <p>8 will mail these at a user-specified interval.</p> <p>9 I'm not sure of what the -- and only for those</p> <p>10 desks. I'm not clear exactly what that might</p> <p>11 be set to for opinion.</p> <p>12 BY MR. VOGT:</p> <p>13 Q Okay. And if you go to the third page of</p> <p>14 this exhibit, item number 20, there's "America's</p> <p>15 Lethal Politics"?</p> <p>16 A Yes.</p> <p>17 Q And then the first column after that says</p> <p>18 "9:07 p.m." That's the time when that editorial was</p> <p>19 published online. Correct?</p> <p>20 A According to the column, yes. The --</p> <p>21 Eastern Standard Time.</p> <p>22 Q And then so the information included</p> <p>23 within this report would have been the number of</p> <p>24 pageviews that occurred between 9:07 p.m. and</p> <p>25 midnight for this particular editorial. Correct?</p>	<p style="text-align: right;">Page 68</p> <p>1 well, not necessarily obviously, but top means the</p> <p>2 biggest. External referrer refers to a domain that</p> <p>3 leads traffic to the piece of content outside of the</p> <p>4 NYTimes.com domain, which would be internal, and it</p> <p>5 indicates the -- the referrer that has the plurality</p> <p>6 of the traffic in the time period of the report.</p> <p>7 Q And then the next column over says</p> <p>8 "Promotion."</p> <p>9 A Yes.</p> <p>10 Q What does that mean?</p> <p>11 A Promotion. Star -- let's see here. The</p> <p>12 descriptor for star, "Icons indicate when an article</p> <p>13 was posted on a social account, the Home Page, or a</p> <p>14 breaking news account." (Sic.)</p> <p>15 So we use promotions as a term to identify</p> <p>16 where we post articles of significant placements.</p> <p>17 So did it get distributed on a -- and by</p> <p>18 significant, I just mean -- because it's external to</p> <p>19 us, we posted a link to it on certain -- I don't</p> <p>20 know this specific article, but we will indicate if</p> <p>21 it was posted on social media account, if it was</p> <p>22 posted on the home page, or if it was -- and/or if</p> <p>23 it was shared as a breaking news alert, according to</p> <p>24 the asterisk on this report.</p> <p>25 Q Yeah. When you say the asterisk, you're</p>
<p style="text-align: right;">Page 67</p> <p>1 A Right.</p> <p>2 Q And so in a little under three hours, it</p> <p>3 had 37,000 pageviews. Is that right?</p> <p>4 A Correct.</p> <p>5 Q And what is -- as used in this report, if</p> <p>6 you look at the top of the column that we've been</p> <p>7 looking at for that 37,000, it says "pageviews."</p> <p>8 How is that defined?</p> <p>9 A That would be -- again, not being a Stela</p> <p>10 expert, but using the standard pageview definition</p> <p>11 that we use for all reporting, which I'm 90</p> <p>12 percent -- 99 percent confident this fits under, I</p> <p>13 can answer it that way.</p> <p>14 Q Okay.</p> <p>15 A And that would be what I was saying before</p> <p>16 where we -- a pageview is a measure of how many</p> <p>17 times that piece of content has loaded across all</p> <p>18 the platforms that we load content across. So that</p> <p>19 would be, again, our website and the core news app</p> <p>20 that would have existed in that time.</p> <p>21 Q And then the next column over says "Top</p> <p>22 External Referrer."</p> <p>23 A Mmm-hmm.</p> <p>24 Q What does that mean?</p> <p>25 A Well, top obviously means the biggest --</p>	<p style="text-align: right;">Page 69</p> <p>1 referring to the information that's on page 3 of</p> <p>2 this exhibit. Right?</p> <p>3 A Yes.</p> <p>4 MS. SCHELL: Object to form.</p> <p>5 THE WITNESS: And that's how I understand</p> <p>6 it.</p> <p>7 BY MR. VOGT:</p> <p>8 Q And if you go to page 3, we were looking</p> <p>9 at that line 20 for "America's Lethal Politics." In</p> <p>10 the column for "Promotion," there's like an image</p> <p>11 there. Do you know what that is?</p> <p>12 A This version, it doesn't -- I don't know.</p> <p>13 Q Do you know if -- if "America's Lethal</p> <p>14 Politics" was promoted on the home page or as a</p> <p>15 breaking news alert, was there anything -- would</p> <p>16 there be any internal documents within the Times</p> <p>17 that would indicate that?</p> <p>18 MS. SCHELL: Object to form.</p> <p>19 THE WITNESS: In normal practice, this</p> <p>20 would be a column that would indicate it. It</p> <p>21 may have been obscured in the PDF transfer.</p> <p>22 What -- what I'm seeing in this column is what</p> <p>23 I've -- I don't look at this report very often,</p> <p>24 if ever, but what I'm seeing in this column</p> <p>25 looks completely unfamiliar, which suggests to</p>

May 29, 2020

70 to 73

<p style="text-align: right;">Page 70</p> <p>1 me that maybe it was a -- it's some -- I don't</p> <p>2 know -- looked at as an error in the report or</p> <p>3 an error in the email. I can't discern from</p> <p>4 here.</p> <p>5 BY MR. VOGT:</p> <p>6 Q And in that last column on line 20, it</p> <p>7 says "Stela" in blue.</p> <p>8 A Mmm-hmm.</p> <p>9 Q What is that?</p> <p>10 A That is a link to the Stela page that</p> <p>11 would display the -- what we had seen previously,</p> <p>12 the Stela, you know, view of that specific story.</p> <p>13 And that would be, you know, it would lead you to</p> <p>14 the Stela report as of when you clicked it, which</p> <p>15 would contain data up to the minute -- or up to the</p> <p>16 ten minutes prior to when you clicked it. Maybe</p> <p>17 hour. Actually, it's hour. Sorry.</p> <p>18 Q Okay. Let me show you another exhibit.</p> <p>19 This is Plaintiff's Exhibit 266.</p> <p>20 A Okay. Opening it. Okay. It's open. "To</p> <p>21 Jamesb." "Yesterday's most read opinion headlines."</p> <p>22 Appears to be from Google Analytics. "Roll-up -</p> <p>23 Opinion - Main Daily Opinion Dashboard pdf." Okay.</p> <p>24 Q And it's a -- it's a composite exhibit.</p> <p>25 There's an email on the first page, and then it</p>	<p style="text-align: right;">Page 72</p> <p>1 I haven't checked every number, but they appear</p> <p>2 to be the same. Daily 202 from PowerPost, from</p> <p>3 the Washington Post, and to -- I'm not sure who</p> <p>4 that is.</p> <p>5 BY MR. VOGT:</p> <p>6 Q That may have just got attached by</p> <p>7 mistake.</p> <p>8 A Oh. Frcline, page 5, that's -- disregard</p> <p>9 this?</p> <p>10 Q Yes. Just disregard page 5. Sorry about</p> <p>11 that.</p> <p>12 A No worries. Page 4 -- okay. I see these.</p> <p>13 Q Okay. So go back to page 1. And the</p> <p>14 subject line on this is "Daily Opinion Dashboard."</p> <p>15 Do you know what that is?</p> <p>16 A "Daily Opinion Dashboard." I'm not</p> <p>17 familiar with this very specific dashboard. I'm</p> <p>18 familiar with this format, however.</p> <p>19 Q So do you know what the email is on the</p> <p>20 first page?</p> <p>21 A Yes. It appears to be an auto-generated</p> <p>22 email from our Google Analytics tool. So the same</p> <p>23 way that Stela has automated emails that can be set</p> <p>24 at user preference, that analytics tool that we had</p> <p>25 mentioned in the first sort of session, the</p>
<p style="text-align: right;">Page 71</p> <p>1 says --</p> <p>2 A Yeah. Dashboard.</p> <p>3 Q -- "Opinion Dashboard" on the second. And</p> <p>4 then there's another email to Opinion Web.</p> <p>5 A So --</p> <p>6 Q It looks like it has the same dashboard on</p> <p>7 the third and fourth page.</p> <p>8 A Okay. Let me see that. So page Number 3</p> <p>9 was from -- is it the same? Noreply-analytics at</p> <p>10 Google --</p> <p>11 MS. SCHELL: I'm sorry. Where are we?</p> <p>12 THE COURT REPORTER: I can't --</p> <p>13 MS. SCHELL: Where are we, Shane?</p> <p>14 MR. VOGT: So it should be a four-page</p> <p>15 exhibit, and he's on the third page of it right</p> <p>16 now.</p> <p>17 MS. SCHELL: Thank you. And what was the</p> <p>18 question? Somebody came in. I'm just trying</p> <p>19 to make sure --</p> <p>20 MR. VOGT: I didn't ask him. I was just</p> <p>21 pointing out to him that it's a composite</p> <p>22 exhibit of two emails with an attachment.</p> <p>23 MS. SCHELL: Got it.</p> <p>24 THE WITNESS: And at first glance, they</p> <p>25 appear to be the same attachment. Opinion Web.</p>	<p style="text-align: right;">Page 73</p> <p>1 Google Analytics that we have also appears to</p> <p>2 offer -- not appears -- it also offers a</p> <p>3 customizable report where the user can go in and</p> <p>4 create a specific report, drag-and-drop style</p> <p>5 almost, that -- some are automated, some are</p> <p>6 drag-and-drop -- and can choose a cadence of</p> <p>7 delivery and a web address -- sorry -- an email</p> <p>8 address to deliver it to.</p> <p>9 Q And then the attachment says "Analytics</p> <p>10 NYT - Roll-Up - Opinion - Main Daily Opinion</p> <p>11 Dashboard." What's the "Main Daily Opinion</p> <p>12 Dashboard"? Is it different from what you just told</p> <p>13 me?</p> <p>14 A There's actually a concatenation of a few</p> <p>15 different things. It appears to be -- it's just</p> <p>16 something that Google automatically does. I can --</p> <p>17 I can interpret it for you, if you'd like.</p> <p>18 Q Yeah. So, I mean, if we -- if we go to</p> <p>19 that -- the second page of this exhibit, what is</p> <p>20 that document?</p> <p>21 MS. SCHELL: Object to form.</p> <p>22 THE WITNESS: Yeah.</p> <p>23 MS. SCHELL: Wait just a second, please,</p> <p>24 Justin.</p> <p>25 Shane, again, this is pretty far afield</p>

May 29, 2020

74 to 77

<p style="text-align: right;">Page 74</p> <p>1 into the world of Google Analytics and the apps</p> <p>2 and not the topic that we are discussing.</p> <p>3 MR. VOGT: Okay.</p> <p>4 BY MR. VOGT:</p> <p>5 Q Do you know what the My Opinion Dashboard</p> <p>6 is on page 2?</p> <p>7 A My Opinion Dashboard. Where do you see</p> <p>8 that?</p> <p>9 Q It should be on the second page up at the</p> <p>10 top -- oh, I'm sorry. Daily Opinion Dashboard?</p> <p>11 A Daily Opinion Dashboard, that is where</p> <p>12 a -- as I was saying, if a user defines a report,</p> <p>13 they can write in a title for it, and that appears</p> <p>14 to be the title for this report.</p> <p>15 Q And does the user generate a report for a</p> <p>16 specific editorial like "America's Lethal Politics"?</p> <p>17 A Sorry. Say it again.</p> <p>18 Q Can the user generate a report for a</p> <p>19 specific editorial like "America's Lethal Politics"?</p> <p>20 MS. SCHELL: Object to form.</p> <p>21 THE WITNESS: I mean, this is more about a</p> <p>22 Google capability that I'm not entirely sure</p> <p>23 of. I -- I would have to sort of check, but</p> <p>24 I'm just not clear with the level of detail you</p> <p>25 can get in those automated reports.</p>	<p style="text-align: right;">Page 76</p> <p>1 like 15?</p> <p>2 MS. SCHELL: Can we go off the record?</p> <p>3 MR. VOGT: Yeah. Off the record.</p> <p>4 VIDEO TECHNICIAN: Off the video record at</p> <p>5 2:16 p.m.</p> <p>6 (The deposition was recessed from</p> <p>7 2:16 p.m. to 2:33 p.m.)</p> <p>8 VIDEO TECHNICIAN: Back on the video</p> <p>9 record at 2:33 p.m.</p> <p>10 BY MR. VOGT:</p> <p>11 Q The Stela report for "America's Lethal</p> <p>12 Politics" we had talked about earlier, does it</p> <p>13 include data concerning the total engaged minutes on</p> <p>14 the editorial?</p> <p>15 A No.</p> <p>16 MS. SCHELL: Object to form, but you can</p> <p>17 answer.</p> <p>18 THE WITNESS: No.</p> <p>19 BY MR. VOGT:</p> <p>20 Q Does -- do you know if the Times maintains</p> <p>21 its own internal data on engaged minutes?</p> <p>22 A We do not.</p> <p>23 MS. SCHELL: Object to form.</p> <p>24 BY MR. VOGT:</p> <p>25 Q Does the Times get that data from</p>
<p style="text-align: right;">Page 75</p> <p>1 BY MR. VOGT:</p> <p>2 Q And do you see in this report on the -- on</p> <p>3 the second page of the exhibit in the middle of the</p> <p>4 page it says "Top stories by pageviews"?</p> <p>5 A Yes.</p> <p>6 Q And then it has "Pageviews" listed there</p> <p>7 and then "Unique Pageviews"?</p> <p>8 A Yes.</p> <p>9 Q Do you know how those terms are defined?</p> <p>10 A These are -- now we're looking at</p> <p>11 Google -- Google's definition of what a pageview and</p> <p>12 unique pageview is. As I understand them, pageview</p> <p>13 for Google is a similar -- it's not similar -- it's</p> <p>14 the same as a metric that indicates a page was</p> <p>15 loaded, and as the example we've given before,</p> <p>16 multiple pages would show up, you know, as multiple</p> <p>17 pages here. Unique pageviews is oftentimes used to</p> <p>18 look at pageviews and essentially count them only if</p> <p>19 they are unique within a session, or essentially, if</p> <p>20 you look at the same page multiple times in a</p> <p>21 session, it's -- it doesn't count them both times.</p> <p>22 Q And then let me show you another exhibit.</p> <p>23 MS. SCHELL: Shane, would you mind if we</p> <p>24 took a quick break?</p> <p>25 MR. VOGT: Yes. No problem. You want</p>	<p style="text-align: right;">Page 77</p> <p>1 Chartbeat?</p> <p>2 MS. SCHELL: Object to form.</p> <p>3 THE WITNESS: Chartbeat has a metric</p> <p>4 called engaged minutes.</p> <p>5 BY MR. VOGT:</p> <p>6 Q Does The New York Times have internal data</p> <p>7 on a metric that's similar to that?</p> <p>8 MS. SCHELL: Object to form.</p> <p>9 THE WITNESS: No.</p> <p>10 BY MR. VOGT:</p> <p>11 Q Does The New York Times have an internal</p> <p>12 metric that measures how long users spend on a</p> <p>13 particular page like "America's Lethal Politics"?</p> <p>14 MS. SCHELL: Object to form.</p> <p>15 THE WITNESS: Sorry. Can you repeat that</p> <p>16 again?</p> <p>17 BY MR. VOGT:</p> <p>18 Q Yes. Does The New York Times have an</p> <p>19 internal metric that measures the amount of time</p> <p>20 that a visitor or visitors spend on a page like</p> <p>21 "America's Lethal Politics"?</p> <p>22 A In 2017, no.</p> <p>23 Q Let me show you another exhibit. This is</p> <p>24 Plaintiff's Exhibit 298.</p> <p>25 A Okay. I opened it. I'm not familiar with</p>

May 29, 2020

78 to 81

<p style="text-align: right;">Page 78</p> <p>1 this.</p> <p>2 Q Okay. So you've never seen this document</p> <p>3 before?</p> <p>4 A I'm going through all of it. Correct.</p> <p>5 It's not familiar to me.</p> <p>6 Q And if you go to the fourth page of this</p> <p>7 document --</p> <p>8 A Yes.</p> <p>9 Q -- it should be a -- it's a -- it should</p> <p>10 say "URL path"?</p> <p>11 A Yes.</p> <p>12 Q Do you know what this is?</p> <p>13 A Again, not seeing this, I don't know, but</p> <p>14 the path is the -- a term we traditionally use in</p> <p>15 data, we traditionally use at the end of the URL.</p> <p>16 Q And what does -- what does that mean, "the</p> <p>17 end of the URL"?</p> <p>18 A A URL has a few different components.</p> <p>19 There's the domain portion and then in many cases</p> <p>20 the remainder after the domain. So NYTimes.com, the</p> <p>21 structure after that is referred to as the path.</p> <p>22 Q Okay. But you're not familiar with any of</p> <p>23 these on the page we're looking at?</p> <p>24 MS. SCHELL: Object to form.</p> <p>25 THE WITNESS: Not these very URLs, but a</p>	<p style="text-align: right;">Page 80</p> <p>1 Q Do you know how this document was created?</p> <p>2 A As an output of queries.</p> <p>3 Q And an output of queries entered into</p> <p>4 what?</p> <p>5 A Into a -- sheets or Excel sheets like this</p> <p>6 document.</p> <p>7 Q And where does the -- the data that's in</p> <p>8 this document, where does it come from?</p> <p>9 A Just the -- the first --</p> <p>10 MS. SCHELL: Object to the form.</p> <p>11 THE WITNESS: -- page, the data -- I</p> <p>12 should answer. Yes?</p> <p>13 MS. SCHELL: Yes.</p> <p>14 THE WITNESS: The first page here is</p> <p>15 showing fans of Facebook -- sorry -- fans on</p> <p>16 Facebook for New York Times. It's an opinion.</p> <p>17 That would have come from at some point</p> <p>18 Facebook. Whether we had them also as internal</p> <p>19 records or not, I'm not 100 percent clear.</p> <p>20 That's for both the Facebook -- Instagram,</p> <p>21 similar. I'm not sure if we just had records</p> <p>22 on hand or we went to these platforms to get</p> <p>23 it.</p> <p>24 BY MR. VOGT:</p> <p>25 Q And there's a column here for "Followers."</p>
<p style="text-align: right;">Page 79</p> <p>1 path -- again, URL is a -- is just an internet</p> <p>2 address. It doesn't necessarily mean it's a</p> <p>3 web page. I'm not familiar with these.</p> <p>4 BY MR. VOGT:</p> <p>5 Q Let me show you another exhibit. This is</p> <p>6 Plaintiff's Exhibit 270.</p> <p>7 A 270. Sure. Give me one second. 270.</p> <p>8 Okay. Clicking. It's open now.</p> <p>9 Q Let me know once you've had a chance to</p> <p>10 look through that.</p> <p>11 A Okay.</p> <p>12 Q Have you ever seen this document before?</p> <p>13 A Yes.</p> <p>14 Q When did you see it?</p> <p>15 A Yesterday.</p> <p>16 Q Have you ever seen it before that time?</p> <p>17 A No.</p> <p>18 MS. SCHELL: Object to form. I mean,</p> <p>19 objection.</p> <p>20 To the extent that involves conversations</p> <p>21 with counsel, please do not answer.</p> <p>22 BY MR. VOGT:</p> <p>23 Q I think you said no, you hadn't seen it</p> <p>24 before then?</p> <p>25 A This very document, no.</p>	<p style="text-align: right;">Page 81</p> <p>1 Do you know what that means?</p> <p>2 A Yes. From a -- I mean as a -- as a</p> <p>3 generic term, I do. I -- I'm not sure -- you know,</p> <p>4 they are used different terms for different</p> <p>5 platforms.</p> <p>6 Q So you don't know how it's used in the</p> <p>7 first page of Exhibit 20. Is that right?</p> <p>8 A I do. Like Facebook, for example, or</p> <p>9 Facebook -- sometimes they are referred to as</p> <p>10 followers, but technically they are, I believe,</p> <p>11 fans, and that represents the people that are fans</p> <p>12 of The New York Times page or The New York Times</p> <p>13 opinion page.</p> <p>14 Instagram, I believe they use the term</p> <p>15 "follower." In other words, you follow an account,</p> <p>16 and therefore the followers represent the number of</p> <p>17 people who followed those accounts on those dates.</p> <p>18 Q And the data that's in the first page of</p> <p>19 Exhibit 270, under the "Followers" column, was that</p> <p>20 manually inputted, or was it taken from some other</p> <p>21 source?</p> <p>22 MS. SCHELL: Object to form.</p> <p>23 THE WITNESS: It could be both.</p> <p>24 BY MR. VOGT:</p> <p>25 Q You don't know?</p>

May 29, 2020

82 to 85

<p style="text-align: right;">Page 82</p> <p>1 A I don't think it's an either/or question.</p> <p>2 I just don't have -- the problem -- what do you</p> <p>3 mean? I think for the purposes of summarizing it</p> <p>4 was -- it could have been copied and pasted. It</p> <p>5 could have been typed. I'm not sure. And it could</p> <p>6 have also come from, you know, another source. It</p> <p>7 could have been a download of a report and a copy</p> <p>8 and paste. So that's why I'm saying it could be</p> <p>9 both.</p> <p>10 Q Then if you turn to the second page of</p> <p>11 Exhibit 270, do you know what -- what this is?</p> <p>12 A Yes.</p> <p>13 Q What is this?</p> <p>14 A That represents the number of users for</p> <p>15 the core New York Times site on that day.</p> <p>16 Q And what is -- the number of users there</p> <p>17 is 10,807,922. Where does that data come from?</p> <p>18 A That comes from our event tracking system,</p> <p>19 our internal analytic system.</p> <p>20 Q And is this -- this particular page we're</p> <p>21 looking at, the second page of Exhibit 270, is this</p> <p>22 like a normal report that's generated, or is this</p> <p>23 just an Excel -- an Excel spreadsheet that someone</p> <p>24 made?</p> <p>25 MS. SCHELL: Object to form.</p>	<p style="text-align: right;">Page 84</p> <p>1 There was a few tabs in there, but they seem to be</p> <p>2 the same.</p> <p>3 Q And what -- we're looking at the second</p> <p>4 page of Exhibit 270. What is a user?</p> <p>5 A A user in this case is an aggregation of</p> <p>6 cookies for users that do not have a ID, and once</p> <p>7 again, those are -- registered users and</p> <p>8 subscribers, those are the ones who have ID. For</p> <p>9 the ones that do not, we count the browser cookies,</p> <p>10 and then we add the unique IDs as the other half.</p> <p>11 So where we know it's a -- it's an account, we count</p> <p>12 an account. Where we don't know it's an account, we</p> <p>13 count the unique cookie. And this would be an</p> <p>14 aggregation of those two counts.</p> <p>15 Q We had talked earlier on about there being</p> <p>16 three types of users. I think you said there were</p> <p>17 anonymous, REGUs, and subscribers included within</p> <p>18 the "Users" definition on page 2 of 270?</p> <p>19 A Yes.</p> <p>20 MS. SCHELL: Object to the form.</p> <p>21 BY MR. VOGT:</p> <p>22 Q And then if you turn to page 3 of</p> <p>23 Exhibit 270?</p> <p>24 A Yes.</p> <p>25 Q Do you know what this document is?</p>
<p style="text-align: right;">Page 83</p> <p>1 THE WITNESS: This is not a standard</p> <p>2 report, but the -- the figures are available.</p> <p>3 Actually, not for day. Sorry. So this is not</p> <p>4 a standard report.</p> <p>5 BY MR. VOGT:</p> <p>6 Q And can you tell me specifically where in</p> <p>7 the Event Tracker system the number of users came</p> <p>8 from?</p> <p>9 MS. SCHELL: Objection to form.</p> <p>10 THE WITNESS: Yes. The Event Tracker</p> <p>11 system is a storer of all data. So this number</p> <p>12 would have come from a query of that data to</p> <p>13 arrive at this figure.</p> <p>14 BY MR. VOGT:</p> <p>15 Q Do you know who did that query?</p> <p>16 A Yes.</p> <p>17 Q Who?</p> <p>18 A Maggie Adams.</p> <p>19 Q And who is Maggie Adams?</p> <p>20 A She was a former analyst on my team.</p> <p>21 Q And did you have -- did you participate in</p> <p>22 creating any of the documents that are within</p> <p>23 Exhibit 270?</p> <p>24 A 270? I worked with her on that day to</p> <p>25 look at them. Yes. I -- yeah. I'm not sure.</p>	<p style="text-align: right;">Page 85</p> <p>1 A This is a count of distinct external URLs</p> <p>2 that, in doing some research last night, I</p> <p>3 determined were to both the Sara Palin piece that</p> <p>4 you're discussing, the "America's Lethal Politics,"</p> <p>5 the opinion article, as well as the initial</p> <p>6 Steve Scalise shooting article.</p> <p>7 Q So where it says on the third page of</p> <p>8 Exhibit 270 "Count of referring URL," does that</p> <p>9 actually -- that includes two separate articles?</p> <p>10 A That's correct.</p> <p>11 Q Why does it include two separate articles?</p> <p>12 A I'm not aware of the -- what the issue</p> <p>13 was. I just -- when I went to -- or researched this</p> <p>14 last night, that's what I determined. It could have</p> <p>15 been a "lost in translation" thing where -- I'm not</p> <p>16 sure -- I was more focused on, you know, the -- the</p> <p>17 figuring it out.</p> <p>18 Q And if you turn to the fourth page of</p> <p>19 Exhibit 270 --</p> <p>20 A Yes.</p> <p>21 Q -- what is this document?</p> <p>22 A Once again, these appear to be a summary</p> <p>23 of distinct readers from the known URLs on 3 -- I'm</p> <p>24 sorry -- page 3, once again, to the same two</p> <p>25 articles in aggregate.</p>

May 29, 2020

86 to 89

<p style="text-align: right;">Page 86</p> <p>1 Q And for the column there where it says</p> <p>2 "SUM of Distinct Readers," what's a distinct reader?</p> <p>3 A A distinct reader in this case is the same</p> <p>4 as user. Those terms are used somewhat</p> <p>5 interchangeably.</p> <p>6 Q And do you know where the data in this</p> <p>7 document that we're looking at, the "SUM of Distinct</p> <p>8 Readers," where did that come from?</p> <p>9 MS. SCHELL: Object to form.</p> <p>10 THE WITNESS: From the -- our BigQuery</p> <p>11 database.</p> <p>12 BY MR. VOGT:</p> <p>13 Q I'm sorry. What did you say there?</p> <p>14 BigQuery database?</p> <p>15 A The BigQuery database where we store the</p> <p>16 Event Tracker data.</p> <p>17 Q Oh, that was the BigQuery we talked about</p> <p>18 earlier?</p> <p>19 A Correct.</p> <p>20 Q And then if you turn to the next page of</p> <p>21 Exhibit 270, what is this?</p> <p>22 A It's a page -- yeah. Okay. This -- this</p> <p>23 seems to be that -- the list of those -- the</p> <p>24 referrals and the pageviews that came via those</p> <p>25 referring URLs to the two stories on the date of --</p>	<p style="text-align: right;">Page 88</p> <p>1 A It's a data format.</p> <p>2 Q And do you know what the data is in</p> <p>3 Exhibit 272?</p> <p>4 MS. SCHELL: Object to form.</p> <p>5 THE WITNESS: Not just from, you know,</p> <p>6 looking at it. Obviously digging in, I</p> <p>7 understand what these data points could be, but</p> <p>8 I'm not -- I don't know necessarily the origins</p> <p>9 of this data.</p> <p>10 BY MR. VOGT:</p> <p>11 Q I'm --</p> <p>12 A Although I do see at the bottom it says</p> <p>13 "Blossom bot."</p> <p>14 Q What is Blossom?</p> <p>15 A Blossom is a report -- a reporting tool</p> <p>16 that looks at traffic to a story and indicates if</p> <p>17 that story is getting a lot of traffic.</p> <p>18 Q If you go to the sixth page of this</p> <p>19 exhibit --</p> <p>20 A Mmm-hmm.</p> <p>21 Q -- about in the middle of that page,</p> <p>22 there's a line at the end of it that says "Most</p> <p>23 Recent Post."</p> <p>24 A Mmm-hmm.</p> <p>25 Q Do you see that?</p>
<p style="text-align: right;">Page 87</p> <p>1 the opinion piece and the news story on the date of</p> <p>2 6/14.</p> <p>3 Q Okay. So this is for two stories again.</p> <p>4 Is that right?</p> <p>5 A Correct.</p> <p>6 Q So what is -- what is the "SUM of</p> <p>7 Pageviews" column? What does that mean?</p> <p>8 A You're on which page again?</p> <p>9 Q The one we're on, it says "Referring URL"</p> <p>10 at the top, and then it says "SUM of Pageviews."</p> <p>11 A That is an aggregation of the pageviews</p> <p>12 that came from those referring URLs.</p> <p>13 Q And then over to the right of that, it</p> <p>14 says "Total Pageviews." What is that?</p> <p>15 A That is a summary of pages from known</p> <p>16 URLs.</p> <p>17 Q And is that the -- to both articles?</p> <p>18 A Correct.</p> <p>19 Q Let me show you one more exhibit. Let's</p> <p>20 see if you can -- let me know once you get that.</p> <p>21 This is Plaintiff's Exhibit 272.</p> <p>22 A 272. Okay. Clicking. Opening. Gotcha.</p> <p>23 Q Do you know what Exhibit 272 is?</p> <p>24 A Appears to be JSON data.</p> <p>25 Q What's JSON?</p>	<p style="text-align: right;">Page 89</p> <p>1 A I'm sorry. On page 7, I see a "Most</p> <p>2 Recent Post." You're saying on page 6. Okay.</p> <p>3 Yeah. Like six lines down or something?</p> <p>4 Q Yeah. Just after that, it should say</p> <p>5 https://twitter.com and then it has some more. And</p> <p>6 then after that, it's got a URL for</p> <p>7 "opinion/steve-scalise-congress-shot-alexandria-</p> <p>8 virginia." Do you see that? Do you know what that</p> <p>9 is?</p> <p>10 MS. SCHELL: To make sure I'm following,</p> <p>11 are you talking about three-quarters of the way</p> <p>12 down page 7?</p> <p>13 MR. VOGT: It may be 7. I'm sorry if I</p> <p>14 said the wrong page.</p> <p>15 MS. SCHELL: 7 of the PDF. It's 2923,</p> <p>16 NYTIMES 2923 at the bottom of the corner.</p> <p>17 MR. VOGT: Let me pull mine up. I printed</p> <p>18 it out, and sometimes my Bates get cut off.</p> <p>19 THE WITNESS: I was looking at 2922 seven</p> <p>20 lines down. It was matching what you were</p> <p>21 describing.</p> <p>22 BY MR. VOGT:</p> <p>23 Q Yeah. 2922.</p> <p>24 A And the seventh line down it says "recent</p> <p>25 post."</p>

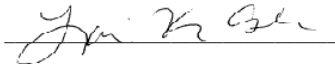

May 29, 2020

90 to 93

<p style="text-align: right;">Page 90</p> <p>1 Q Yeah.</p> <p>2 A And then what flows after that? Right?</p> <p>3 That's what we're all looking at?</p> <p>4 Q Yeah. I'm just trying to figure out from</p> <p>5 you what is that that flows after that "recent</p> <p>6 post"?</p> <p>7 A Yeah. I'm -- I'm -- it's part of the JSON</p> <p>8 object that starts on Page -- I'm not even sure.</p> <p>9 Let's see. Maybe on page 2920. I'm not sure. But</p> <p>10 it's towards the end of that big -- what is actually</p> <p>11 termed a blob, a JSON blob, for obvious reasons, as</p> <p>12 you can see. It's just a -- I mean, I don't know</p> <p>13 from -- from recognizing it, but I just know from --</p> <p>14 from JSON, this appears to be JSON data in --</p> <p>15 printed on a sheet.</p> <p>16 Q And do you know where -- where this data</p> <p>17 comes from?</p> <p>18 A No.</p> <p>19 Q And is Blossom -- the Blossom bot, is that</p> <p>20 through Slack?</p> <p>21 MS. SCHELL: Object to form.</p> <p>22 THE WITNESS: Blossom has Slack</p> <p>23 integrations.</p> <p>24 BY MR. VOGT:</p> <p>25 Q And do you know whether or not the</p>	<p style="text-align: right;">Page 92</p> <p>1 people in the -- in the New York Times building</p> <p>2 that have a Slack account that are, you know,</p> <p>3 trading messages back and forth.</p> <p>4 BY MR. VOGT:</p> <p>5 Q Okay. Yeah. That's what I was asking.</p> <p>6 A It's not a reader platform, to be clear on</p> <p>7 that.</p> <p>8 Q Does -- does The New York Times maintain</p> <p>9 data that would show how many people read a</p> <p>10 correction that was added to a piece of content like</p> <p>11 the editorial "America's Lethal Politics"?</p> <p>12 MS. SCHELL: Object to form.</p> <p>13 THE WITNESS: We -- I mean, we don't know</p> <p>14 what is read or not by the reader. We know</p> <p>15 what was on the page when the reader accessed</p> <p>16 it.</p> <p>17 BY MR. VOGT:</p> <p>18 Q And the Times maintains that type of data?</p> <p>19 MS. SCHELL: Object to form.</p> <p>20 THE WITNESS: For the most part. There</p> <p>21 are things I can't speak to, like could we know</p> <p>22 what advertisement was shown, I don't believe</p> <p>23 so. But do we know what the text was at the</p> <p>24 time of the pageview, the answer is yes.</p> <p>25 BY MR. VOGT:</p>
<p style="text-align: right;">Page 91</p> <p>1 "America's Lethal Politics" editorial -- was it</p> <p>2 disseminated through Slack?</p> <p>3 MS. SCHELL: Object to form.</p> <p>4 THE WITNESS: More specifically Blossom?</p> <p>5 BY MR. VOGT:</p> <p>6 Q Yes.</p> <p>7 A I'm not aware. I'm sorry. Actually, to</p> <p>8 clarify, just -- what was the word you said?</p> <p>9 Disseminated?</p> <p>10 Q Yes.</p> <p>11 A That may need further clarification. I</p> <p>12 just want to make sure I'm answering that correctly.</p> <p>13 Q Yeah. So if I use the term, going back to</p> <p>14 that one exhibit that we looked at where it says</p> <p>15 "promotion" --</p> <p>16 A Mmm-hmm.</p> <p>17 Q -- was "America's Lethal Politics"</p> <p>18 promoted through Slack?</p> <p>19 MS. SCHELL: Object to form.</p> <p>20 THE WITNESS: Slack is currently and in</p> <p>21 2007 exclusively like an internal messaging</p> <p>22 system. It does have some integrations with</p> <p>23 products, but it's only internal. So any, you</p> <p>24 know, posts shared or data shared on Slack is</p> <p>25 not reaching a broader audience other than the</p>	<p style="text-align: right;">Page 93</p> <p>1 Q Where is that data maintained?</p> <p>2 MS. SCHELL: Object to the form.</p> <p>3 THE WITNESS: The data is -- is not really</p> <p>4 maintained for analytics purposes but is a</p> <p>5 paper trail, if you will, quote/unquote, in our</p> <p>6 CMS. So there will be, you know, corrections</p> <p>7 or there is some mechanisms in our system that</p> <p>8 doesn't just overwrite old, you know, data.</p> <p>9 There is a time stamp to changes. And when we</p> <p>10 need to figure this out, we sort of have to do</p> <p>11 some forensics that way to connect the systems</p> <p>12 and look at it.</p> <p>13 BY MR. VOGT:</p> <p>14 Q So if you have the time stamp on the</p> <p>15 changes, say, on "America's Lethal Politics," would</p> <p>16 you go back to like the Stela report and be able to</p> <p>17 see how many people visited the page of the article</p> <p>18 after the time period of the correction?</p> <p>19 MS. SCHELL: Object to form.</p> <p>20 THE WITNESS: Yes. If you know when the</p> <p>21 correction occurred, you could use a report</p> <p>22 like Stela to understand pageviews since that</p> <p>23 time. We do -- just to note, the time length</p> <p>24 in Stela itself is at the hour. So if it</p> <p>25 happened mid hour, it's not clear what --</p>

Justin Stile
May 29, 2020

94 to 97

<p style="text-align: right;">Page 94</p> <p>1 what -- it might just count the whole hour,</p> <p>2 for example, but the granular data that Stela</p> <p>3 uses has the specificity of milliseconds.</p> <p>4 BY MR. VOGT:</p> <p>5 Q Does The New York Times use Cision?</p> <p>6 MS. SCHELL: Object to form.</p> <p>7 THE WITNESS: Cision? Is that the word?</p> <p>8 Cision?</p> <p>9 BY MR. VOGT:</p> <p>10 Q Yes.</p> <p>11 A I'm not -- how do you spell that?</p> <p>12 Q C-i-s-i-o-n.</p> <p>13 A Not that I'm aware of. I've never heard</p> <p>14 that. I -- not that I can recall that, even that</p> <p>15 name.</p> <p>16 MR. VOGT: Okay. I think that's all the</p> <p>17 questions that I have for you at this time.</p> <p>18 Okay. I appreciate it.</p> <p>19 MS. SCHELL: Shane, can we take a real</p> <p>20 quick break? I just want to make sure we don't</p> <p>21 have any follow-up questions.</p> <p>22 MR. VOGT: Yes. No problem.</p> <p>23 MS. SCHELL: Okay. Can we go off the</p> <p>24 record?</p> <p>25 VIDEO TECHNICIAN: Off the video record at</p>	<p style="text-align: right;">Page 96</p> <p>1 CERTIFICATE OF REPORTER</p> <p>2</p> <p>3 STATE OF FLORIDA)</p> <p>4 COUNTY OF HILLSBOROUGH)</p> <p>5</p> <p>6 I, Lori K. Ash, RPR, FPR, certify that I was</p> <p>7 authorized to and did stenographically report the</p> <p>8 videoconference deposition of JUSTIN STILE remotely;</p> <p>9 that a review of the transcript was not requested;</p> <p>10 and that the foregoing pages, numbered 1 through 95,</p> <p>11 are a true and complete record of my stenographic</p> <p>12 notes taken during said videoconference deposition.</p> <p>13 I further certify that I am not a relative,</p> <p>14 employee, attorney or counsel of any of the parties,</p> <p>15 nor am I a relative or employee of any of the</p> <p>16 parties' attorneys or counsel connected with the</p> <p>17 action, nor am I financially interested in the</p> <p>18 action.</p> <p>19 Dated this 11th day of June, 2020.</p> <p>20</p> <p>21</p> <p>22 </p> <p>23 LORI K. ASH, RPR, FPR</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 95</p> <p>1 3:05 p.m.</p> <p>2 (The deposition was recessed from</p> <p>3 3:05 p.m. to 3:16 p.m.)</p> <p>4 VIDEO TECHNICIAN: Back on the video</p> <p>5 record at 3:16 p.m.</p> <p>6 MS. SCHELL: Counsel for Defendants do not</p> <p>7 have any follow-up questions for this witness.</p> <p>8 MR. VOGT: All right. Thank you very</p> <p>9 much, Mr. Stile.</p> <p>10 THE WITNESS: Thank you, sir. Appreciate</p> <p>11 it.</p> <p>12 MR. VOGT: Thanks. Have a good weekend</p> <p>13 everyone.</p> <p>14 MS. SCHELL: You too.</p> <p>15 MR. VOGT: Bye-bye.</p> <p>16 VIDEO TECHNICIAN: Off the video record at</p> <p>17 3:16 p.m.</p> <p>18 (At 3:16 p.m., no further questions were</p> <p>19 propounded to the witness.)</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 97</p> <p>1 CERTIFICATE OF OATH</p> <p>2</p> <p>3</p> <p>4 STATE OF FLORIDA)</p> <p>5 COUNTY OF HILLSBOROUGH)</p> <p>6</p> <p>7</p> <p>8</p> <p>9 I, the undersigned authority, certify that</p> <p>10 JUSTIN STILE appeared before me remotely and was</p> <p>11 duly sworn on the 29th day of May, 2020.</p> <p>12</p> <p>13</p> <p>14 WITNESS my hand and official seal this 11th day</p> <p>15 of June, 2020.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 </p> <p>24 LORI K. ASH, RPR, FPR</p> <p>25 Notary Public - State of Florida</p> <p>My Commission No. GG 178294</p> <p>Expires: March 24, 2022</p>